THE BALLOT ACT

AS APPLIED TO

PARLIAMENTARY & MUNICIPAL ELECTIONS,

POPULARLY EXPLAINED.

BY

W. A. HOLDSWORTH, Esq.

BARRISTER-AT-LAW

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THE

BALLOT ACT,

1872,

FOR

PARLIAMENTARY AND MUNICIPAL ELECTIONS.

WITH

EXPLANATORY INTRODUCTION AND NOTES, AND AN INDEX.

BY

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CONTENTS.

PAGE

INTRODUCTION 1

THE BALLOT ACT, 1872 36

PART I.

PARLIAMENTARY ELECTIONS.

Procedure at Elections.

Nomination of Candidates for Parliamentary Elections 36
Poll at Elections 38

Offences at Elections.

Offences in respect of Nomination Papers, Ballot Paper, and Ballot Boxes 40
Infringement of Secrecy 43

Amendment of Law.

Division of Counties and Boroughs into Polling Districts 44
Use of School and Public Room for Poll . 47
Conclusiveness of Register of Voters . 48

Duties of Returning and Election Officers.

General Powers and Duties of Returning Officer 50
Keeping of Order in Station . 51
Powers of Presiding Officer and Administration of Oaths, &c. 52
Liability of Officers for Misconduct . 53

Miscellaneous.

PAGE

Prohibition of Disclosure of Vote . . . 54
Non-compliance with Rules 54
Use of Municipal Ballot Boxes, &c., for Parliamentary Election, and *vice versâ* 55
Construction of Act 56

Application of Part of Act to Scotland.

Alterations for Application of Part I. to Scotland . . 56

Application of Part of Act to Ireland.

Alterations for Application of Part I. to Ireland . 58
Provisions as to Polling Districts and Polling Places in Ireland . . 59
Amendment of Law as to Voting in Wards in Certain Boroughs 65

PART II.

MUNICIPAL ELECTIONS.

Application to Municipal Election of Enactments relating to the Poll at Parliamentary Elections . . 66
Abolition of Ward Assessor 68

Application of Part of Act to Scotland.

Alterations for Application of Part II. to Scotland . . 68

Application of Part of Act to Ireland.

Alterations for Application of Part II. to Ireland . 69

PART III.

PERSONATION.

Definition and Punishment of Personation . . . 70
Vote to be struck off for Bribery, Treating, or Undue Influence 73
Alterations in Act as applying to Scotland 73
Construction of part of Act . 73

PART IV.

MISCELLANEOUS.

PAGE

Effect of Schedules 74
Definitions: "Municipal Borough;" "Municipal Corporation Acts;" "Municipal Election" . . . 74
Application of Act 76
Saving 76

Repeal.

Repeal of Acts in Schedules . . 76
Short title 77

SCHEDULES.

1. Rules for Parliamentary Elections . 78
Ditto for Municipal Elections . 98
2. Forms . 102
3. Provisions of Registration Acts referred to in Part III. of foregoing Act . 111
4. Acts relating to England Repealed . 112
5. Acts relating to Scotland Repealed . . 117
6. Acts relating to Ireland Repealed . . 120

APPENDIX.

Provisions of Registration Acts contained in Schedule III. 124

THE

BALLOT ACT, 1872.

INTRODUCTION.

THE prolonged contest to which the substitution of secret for open voting has given rise was terminated by the Act 35 & 36 Vict. c. 33, which has recently received the Royal Assent. Into the merits or demerits of that measure it is not for us here to enter. Our object in these introductory observations is simply to furnish a complete but concise summary of the Act; to point out what seems to us to be the correct construction of some of its most important clauses; and at the same time to supply such references to its provisions as will enable any one, not only to verify our general statement of the law, but to obtain such further information as they may require on points of detail. In a subsequent part of the work will be found the full text of the Act, together with such notes as may be necessary or useful to the mastery of its contents.

The Act extends both to Scotland and Ireland, as well as to England and Wales; and its provisions, in so far as they regulate the mode of voting, provide for the punishment of offences at elections, or prescribe the general duties of returning and election officers, &c., apply indifferently to Parliamentary and Municipal elections.

In regard to the nomination of candidates, and to one or two other matters, its operation is either confined to parliamentary elections, or varies as it applies to the one or other description of contest.

The Act is drawn in a rather unusual form. The clauses of the Act itself are confined to laying down the mere outlines of the new procedure at elections, while the details are filled in by a minute code of rules, which are relegated to the First Schedule. As, however, it is provided (by Clause 28) that "the Schedules to this Act, and the notes thereto, and directions therein, shall be construed and have effect as part of this Act," the rules in the schedule will have exactly the same force, and must be construed in exactly the same way as if they were so many clauses in the Act. That being so, the most convenient mode of dealing with the Act, for our present purpose, will be to treat the clauses and the rules together; and to bring under one head the clauses, which may be considered as laying down the principles, and the rules by which those principles are practically carried out. In pursuing this course, we shall in the main follow the division of the subject which we find in the Act. It is probably as

good as any other which could be adopted; while the very fact that it is the arrangement in the Act, obviously recommends it as one offering the greatest facilities for reference.

PART I.

The Nomination.

ONE of the leading features of the Act is the abolition of public nominations. The British hustings, with its noise and riot, is now a thing of the past. Henceforth the nomination of candidates will be conducted, not, indeed, in secrecy, but in comparative privacy, and will be transacted as a simple matter of business, without any of the stirring accessories by which it has hitherto been surrounded.

In future the returning officer will, in the case of a county election, within two days after he receives the writ, and, in the case of a borough election, on the day on which he receives the writ, or on the following day, give public notice, within certain specified hours, of the day on which, and the time at which, he will proceed to the election; of the day on which the poll will be taken, in case the election is contested; and of the time and place at which forms of nomination papers may be obtained. In the case of county elections, notices are to be sent to, and published by, the postmaster of each polling place in the county. (Rule 1, Schedule I.) The day of election, *i.e.* the nomination, in a county or

district borough* is to be not later than the ninth day after the day on which he receives the writ, with an interval of not less than three clear days between the day on which he gives the notice and the day of election; and in the case of a borough, other than a district borough, not later than the fourth day after that on which he receives the writ, with an interval of not less than two clear days between the day on which he gives the notice and the day of election. (Rule 2, Schedule I.) The place of election is to be a convenient room situate in the town in which such an election would have been held if the Act had not been passed, or when the nomination would not have been held in a town (as has hitherto been the case in several counties), then in such town in the county as the returning officer may from time to time select. The time appointed for the election is to be such hours between ten in the forenoon and three in the afternoon as the returning officer may appoint. (Rules 3 and 4, Schedule I.)

Each candidate for election for a county or borough must be nominated in writing, his nomination being subscribed by two registered electors of such county or borough as proposers and seconders, and by eight other registered electors as assenting to the nomination. The returning officer is to decide on the validity of any nomination paper. If he decides in favour of its validity, his decision will be final; if he decides against it, his decision will be subject to

* For an explanation of the term "district" borough, *see* Rule 56, Schedule I.

reversal on an election petition. Although each candidate must be nominated by a separate nomination paper, the same electors, or any of them, may subscribe as many nomination papers as there are vacancies to be filled, but no more. Provision having been then made in the Act with respect to the form of nomination papers, and to their supply by the returning officer to all registered electors requiring them, it is enacted that the nomination papers of the candidates are to be delivered to the returning officer at the place of, and during the time appointed for, election, either by the candidate himself, or by his proposer or seconder. Public notice of the nomination having been made is to be forthwith given by placarding the names of the candidate, and his proposer and seconder, in a conspicuous position outside the building in which the nomination is being held. No persons except the candidates nominated, their proposers and seconders, one other person nominated by each candidate (and of course the returning officer's clerks or agents), are to be present at the proceedings during the time of election. If, at the expiration of one hour after the time appointed for the election, no more candidates are nominated than there are vacancies to be filled up, the returning officer will at once declare the candidates who have been nominated to be duly elected. If, however, more candidates are nominated than there are vacancies to fill, the returning officer will adjourn the election, in order that a poll may be taken. Provision is made for the withdrawal of a candidate. Other

rules enforce upon the returning officer the duty of giving notice of the day of polling, and describe the manner in which this duty is to be performed. (*See* on these points Clause 1, p. 36, and Rules 1 to 13, Schedule I. pp. 78—82. The forms of writ, of notice of election, and of nomination paper, will be found in the Second Schedule, pp. 104—107.)

The Poll.—Vote by Ballot.

The poll is to take place on such day as the returning officer may appoint, not being, in the case of an election for a county or district borough, less than two nor more than six clear days, and in the case of an election for a borough other than a district borough, more than three clear days after the day fixed for the election (*i.e.*, the nomination. Rule 14, Schedule I.).

The returning officer is to provide a sufficient number of polling stations (giving public notice of their situation, &c., Rule 19); and is to distribute them as he thinks most convenient (Rule 15); and no one is to be permitted to vote at any polling station except the one allotted to him (Rule 18).

The returning officer is to give public notice of the situation of the polling stations, of the description of voters entitled to vote at each station, and of the way in which they are to vote (Rule 19).

In the case of a poll, the votes are to be given by ballot (Clause 2).

In order that this may be done, each polling station is to be furnished with compartments in which the voters can mark their votes secretly (Rule 16), together with materials for the voters to mark the ballot papers, with instruments for stamping thereon the official mark, and with copies of the register of voters, or, at all events, of such of them as are appointed to vote at that station. Each station will be under the care of a presiding officer, who is charged with the conduct of the proceedings and with the maintenance of order (Rule 21).

The voting will be by ballot papers, each of which is to contain a list of the candidates described, is to be in a form given in the Second Schedule of the Act (p. 108), and is to be capable of being folded up.

On coming to vote, the elector will apply to the presiding officer for a paper, at the same time giving his name and description. Thereupon the number, name, and description of the elector as it appears in the register will be called out; and if there is no reason to doubt that he is the person he represents himself to be, a voting paper will at once be given to him. If, however, any doubt be entertained, or if any of the agents of the candidates choose to demand it, he may be required to declare that he is the person whose name appears on the register, and that he has not voted before at the same election.

Before giving out the ballot paper, the presiding officer will mark it on both sides with the official mark; and it is provided (Clause 2) that no ballot paper which has not

this official mark on its back, or on which votes are given to more candidates than the voter is entitled to vote for, or on which anything is written or marked by which the voter can be identified, is to be void, and is not to be counted. The reason of the two latter provisions is obvious. The presence of the official mark is insisted upon as a security against the voter depositing in the ballot box any more papers or any other paper than the one given out to him. As he will only have one paper given to him, he cannot put in any other bearing the official mark; and if he were to put in any not bearing that stamp, they would be rejected as spurious in counting the votes. The voting paper will have a number printed on the back, and will be separated from a counterfoil bearing the same number. At the time of separation the number of the voter on the register of voters will be marked on the counterfoil, in order to enable the vote to be identified on a scrutiny, in case it should be found that the elector by whom it is given has personated some one else, has voted more than once, or was not entitled to vote at all.

The elector, on receiving his ballot paper, is forthwith to retire to a compartment in the polling station, where he is secretly to mark his vote upon the face of the paper by putting a × opposite the name or names of the candidates for whom he votes.

The next is the really vital stage of the whole proceeding. The paper, being secretly marked in the compartment, must it be placed in the ballot box, without

any previous disclosure of the voting mark—or may the elector, if he likes, display it? Or, to use the terms with which the public has been familiarized through the discussions in Parliament, is the secrecy of the ballot optional or compulsory? The answer to that question depends on a portion of the second clause of the Act Rule 25 of Schedule I., and a form of "directions for the guidance of the voter in voting," which will be found in Schedule II. (*See* p. 109.) These are the only provisions which refer to the observance of secrecy, and by them that observance must stand or fall.

Before we endeavour to ascertain how far they have the effect which has been attributed to them, it is desirable clearly to understand what we mean by "secrecy." It is not meant by the observance of secrecy that the voter is prohibited from either (1) telling any one *before* he votes how he intends to vote, or (2) giving similar information *after* he has voted as to the manner in which he exercised the franchise. It is confessedly perfectly open to him to do either of these things. The one thing which the friends of the ballot endeavoured to prevent during the passage of the measure through Parliament is the exhibition in the polling booth of the front of the ballot paper on which the vote is marked; after the voting mark is placed upon it, and before it is put into the ballot box. The reason of this is obvious. That is the only way in which the vote can really be disclosed. A man's statement as to the mode in which he is going

to vote, or has voted, may be either true or false; but the ballot paper speaks for itself, and no doubt as to the way in which a man has exercised the franchise can be left on the mind of any one who has seen the marked paper, and then seen it put, without any alteration, into the box. Once, therefore, allow this paper to be seen, and it is clear that the secrecy of the ballot is gone; while it has been contended, with a force of which it is not for us in this place to express any opinion, that to give the voter any option as to whether he will or will not conceal his vote, will leave him as open as ever to the exercise of intimidation; while it will afford, at least, as much facility to corruption as existed under the open system, by enabling the candidate's agent in the booth to ascertain whether those who may have been bribed fulfil their promises. In order that there might, therefore, be no mistake on the point, Mr. Leatham, in the course of the discussion in the Committee of the House of Commons, proposed the insertion of words enforcing a penalty on any voter who wilfully showed his paper. That motion was rejected, although it had the strenuous support of the Government, who then contended that its adoption was necessary as a guarantee for perfect secrecy. They subsequently persuaded themselves that the provisions of the Act as they now stand were sufficient, on the ground that the statute enjoins secrecy, and that any one violating that secrecy, and thus disobeying the positive commands of an Act of Parliament, would commit a

common law misdemeanour, and would be punishable in respect thereof. The question we have, therefore, now to consider is, whether the provisions in the Act which are assumed to enjoin upon the voter the observance of secrecy—that is to say, the concealment of the front of his voting paper during the interval between its marking and its deposit in the ballot box—are of such a character as to serve as the basis of an indictment against one who disobeys them. In our opinion, they fall short of this. We do not think that a voter who (within the booth*) displays his paper, after marking it, will, as the Act stands, commit any offence, or be amenable to any punishment. The provisions on which the decision of this question must mainly turn are (in the first place) the following sentence in Clause 2:—"At the time of voting, the ballot paper shall be marked on both sides with an official mark, and delivered to the voter within the polling station, and the number of such voter on the register of voters shall be marked on the counterfoil, and the voter having secretly marked his vote on the paper, and folded it up so as to conceal his vote, shall place it in a closed box in the presence of the officer presiding at the polling station (in this Act called 'the presiding officer'), after having shown to him the official mark at the back;" and Rule 25, Schedule I., which is as follows:—"The elector, on receiving the ballot paper, shall forthwith proceed into

* "Fraudulently" to take a paper out of the booth is an offence under Clause 4.

one of the compartments in the polling station and there mark his paper and fold it up so as to conceal his vote, and shall then put his ballot paper so folded up into the ballot box; he shall vote without undue delay, and shall quit the polling station as soon as he has put his ballot paper into the ballot box." So far as is material for our present purpose these two provisions, read together, order the voter to do three things—1st, to fold the paper up so as to conceal his vote; 2nd, then to put it without undue delay into the ballot box; and 3rd, to put it into the ballot box "*so* folded up," *i.e.*, so folded up as to conceal the vote. But they do not contain any words requiring the concealment of the vote to be continuous from the first folding up in the compartment to the deposit in the ballot box. The paper must be folded up in the compartment, and it must be folded up when it is put into the box; but we find nothing in these provisions to prevent its being displayed in the meantime. Suppose, for instance, that a voter goes into the compartment and there marks his paper and conceals his vote; that he proceeds at once and without undue delay in the direction of the ballot box; that while on his way he unfolds his paper and shows it to every one present; but that, before reaching the ballot box, or putting his paper into it, he re-folds the paper and, as he is directed, shows the back of it to the presiding officer. In that case he will have done every one of the three things which, as we have seen, he is expressly told to do by the statute; nor will he have done any-

thing which he is forbidden to do. In other words, he will have completely fulfilled the directions of the Act, but will at the same time have done something else—and something which he is not prohibited from doing—to please himself. No doubt this is a strict construction of the words of the statute; but it is almost unnecessary to say that this is the kind of construction which it will receive when it is made the foundation of an indictment. That is not, however, the only ground on which it seems to us that no indictment for a common law misdemeanour will lie for displaying a voting paper. It is clear that no such indictment will lie for disobedience to or violation of any provisions which are not imperative and compulsory. Now, it is a settled rule that where the words of a statute are merely *affirmative*, then (in the absence of any penalty, which is the case here) they are construed as merely directory, or discretionary. It requires the presence of *negative* words to render them compulsory. *R.* v. *The Inhabitants of Birmingham*, 8 B. & C. 29; *Pearce* v. *Morrice*, 2 A. & E. 84; *R.* v. *Leicester* (*Justices of*), 7 B. & C. 12. In the second of these cases, Taunton, J., said: "I understand the distinction between directory and imperative statutes to be that a clause is directory when the provisions contain mere matter of direction, and nothing more, but not so when they are followed by such words as are used here, viz., that anything done contrary to such provisions shall be null and void to all intents. *These words* give a direct, positive, and absolute prohibition." The judgments

of the other judges were to the same effect. The last of the cases we have mentioned was decided on the 54 Geo. III. c. 84, which directed that the Quarter Sessions *shall* be holden the week after Michaelmas. It is held that these words (there being no penalty imposed for disobedience) were merely *directory*, and that the sessions might be held at any other time. In giving judgment, Lord Tenterden said, "It has been asked what language will make a statute imperative if the 54 Geo. III. c. 84, be not? Negative words would have given it that effect, but those used are in the affirmative only." We are aware that in his work on the Statutes, Sir F. Dwarris questions the deduction which is usually drawn, and which we have drawn, from *R.* v. *Leicester* (*Justices of*). He contends, on the authority of *Davison* v. *Gill*, 1 East. 64, that affirmative words alone may, when they are sufficiently distinct, be construed imperatively. When, however, *Davison* v. *Gill* is examined, it will be found that the learned author has completely misrepresented its effect. The point there arose upon the construction of a clause, directing that certain forms in a schedule "*shall* be used;" and Sir F. Dwarris quotes it as if the clause stopped there. It did, in fact, go on to say, "with such variations and additions *only* as may be necessary," &c. "Only" is, of course, equivalent to "not otherwise," and is therefore a negative expression; and in his judgment Lord Kenyon expressly relies upon this word "only" as the ground for holding the statute compulsory, and not merely directory.

So far, therefore, from being at variance with *R.* v. *Leicester* (*Justices of*), and the other cases cited, *Davison* v. *Gill* is a direct authority for the principle of construction on which they proceed. If the reader will now turn to the passage from Clause 2, and to Rule 25, he will find that they are throughout affirmative. From beginning to end, they do not contain a single negative expression. They do not contain anything equivalent to "this you must do, *and not otherwise*," nor do they contain any words rendering a vote null and void if the front of the paper be shown, or authorizing the presiding officer to reject the tender of such a vote. In the words of Mr. Justice Taunton, they "contain mere matter of direction, and nothing more." We are, therefore, of opinion that they would be construed as merely directory. There remains to consider the form of directions to the voter in Schedule II., which under Clause 28 are "to be construed and have effect as part of this Act." This form, it will be seen, is described as a "Form of directions for the guidance of the voter in voting, which shall be printed in conspicuous characters and placarded outside every polling station, and in every compartment of every polling station." It contains these words bearing upon the point now under consideration:—"The voter will then fold up the ballot paper so as to show the official mark on the back, and leaving the compartment will, without showing the front of the paper to any person, show the official mark on the back to the presiding officer, and then, in the presence of the presiding officer, put the

paper into the ballot box." Now, it is true that there are here words of a negative character, and words which *may*, but which we think do not, *necessarily*, imply continuous concealment of the paper; but then it is plain that the whole construction of the document is governed by its heading. It will be observed that it is there described not as "rules which must or shall be observed by the voter," but merely as "directions for his guidance." Now, directions for a man's "guidance" are clearly not peremptory commands. They only point out to him what it is proper for him to do, and they do not import "that you must do, and not otherwise." Quite consistently with this construction, it will be seen that the word employed is "will," and not "shall"—that is to say, an expression of guidance rather than of command. Moreover, as there is a comma both before and after the words, "without showing the paper to any person," it is possible to read them either in connection with the phrase which precedes them, or with that by which they are followed. If read in the former way, they will mean that the voter, after leaving the compartment, is not to show the front of the paper to any person; but that he is to show the back to the presiding officer. If read in the latter way, they would only mean that the voter is to show the back to the presiding officer in such a way as not at the same time to show the front either to him or to any other person; thus leaving the interval between the compartment and the box uncovered. Lastly, there is a further, and far more important, objection to the sufficiency of this

"form of directions, &c.," as the basis of an indictment. It states what are the misdemeanours for the commission of which a voter will be liable to punishment, and it does not include amongst them the misdemeanour of showing his voting paper. It tells him that if he takes a ballot paper out of the polling station, or deposits in the ballot box any other paper than the one given him, he will be guilty of a misdemeanour; and there it stops. Now *expressio unius est, exclusio alterius;* and therefore, from this form of directions itself, it would appear that, except the two acts specifically mentioned, no acts inconsistent with, or in violation of, its terms, amount to misdemeanours. We cannot, therefore, think that this form supplies the defects which we have pointed out in the 2nd clause and the 25th rule; and we are driven, as an ultimate result, to the conclusion that it will be no offence for a voter to display his paper in the booth; that, if he chooses, he may do so with perfect impunity; and, consequently, that the secrecy of the Ballot is, under this Bill, perfectly optional. Of course, as the display of the ballot paper must take place inside the polling station, the disclosure of the vote will be confined to those who happen to be present at the time. So far as the officials go, they will, as we shall presently see, be bound to secrecy; but no such obligation is imposed upon any electors who may be within the polling station. There is nothing to prevent them from publishing abroad what they may have seen.

The provisions for ensuring the observance of secrecy on the part of the returning officer, and of the officers, clerks, and agents in attendance at the polling booth, are of a different and much more efficient character. Every such person will have to make a declaration (*see* Form, p. 110) that he will not do anything contrary to the 4th section of the Ballot Act. This declaration is to be made, if by a returning officer, in the presence of a justice of the peace, and by any other officer or agent in the presence of a justice of the peace, or the returning officer (Rule 54). The 4th clause, to which it refers, requires the officers, clerks, and agents in question to maintain, and aid in maintaining, the secrecy of voting in the station at which they are on duty, and forbids them from communicating to any person, except for some purpose authorized by law, before the poll is closed, any information as to the name or number on the register of voters of any elector who has or has not applied for a ballot paper, or voted at the station, or as to the official mark.

It then provides that no such officer, clerk or agent, nor any other person whatsoever, shall interfere with, or attempt to interfere with, any voter when marking his vote, or otherwise attempt to obtain in the polling station information as to the candidate for whom any voter is about to vote or has voted, or communicate at any time to any person any information obtained in a polling station as to the candidate for whom any voter in such station is about to vote or has voted. Finally,

the section provides that "no person shall, directly or indirectly, induce any voter to display his ballot paper after he has marked the same, so as to make known to any person the name of the candidate for or against whom he has marked his vote." Any one who does any of the acts thus forbidden will be liable, on summary conviction before two justices, to imprisonment for six months, with or without hard labour. So far as the clear and explicit definition of offences and denunciation of punishments go, this clause leaves nothing to be desired. Its weakness lies in the character of those offences; in the facility with which a man may, without doing anything of which a court of law could take cognizance, accomplish by indirect means the objects which it is the purpose of the clause to defeat; in the difficulty of obtaining a conviction for communications, which, if made, will be made in the strictest confidence to members of the same party as the person from whom they proceed; and in the circumstance that if there is in any locality, any person, or class, desiring to compel voters to vote openly, they will know how to make their views and wishes on the subject known, without doing anything which can be construed either as a direct or an indirect "inducement" to a particular voter. The very fact that they possess the influence against which the ballot is intended to guard will render it easy for them to accomplish their object, by diffusing an impression that they will look with disfavour on any one who votes secretly. But we do not see that they need confine themselves to that. Suppose a

large landed proprietor or an extensive manufacturer and employer of labour were to make a speech just before the election, vigorously denouncing the ballot as utterly un-English, mean, and skulking; or suppose that at trades union were to meet and pass resolutions to the same effect;—no one can for a moment pretend that they would be liable to prosecution under the latter words of the clause for "directly or indirectly inducing any voter," &c. If, indeed, the voter knew that he would be liable to prosecution if he disclosed his vote, he would probably disregard the vague and general intimidation which expressions such as these are calculated to exercise upon him; and then those who desire to exert undue influence would have to do so by acts or expressions addressed to the individual, of which the law could lay hold. But if we are right in our opinion, that a voter will not be liable to prosecution for disclosing his vote, it follows that he will be deprived of this support, and that he will be amenable to influence against which the law is powerless to protect him, and against which the words of this clause will certainly not avail.

Although the voter is, in general, to mark his own paper, there are some exceptional cases in which he may have his paper marked for him. Rule 26 provides, that on the application of any voter who is incapable by blindness or other physical cause from voting in the manner prescribed by the Act, or who (if the election is held on Saturday) declares that he is a Jew, and objects on religious grounds to vote in the

same manner, or who puts his mark to a declaration (*see* p. 110) that he is unable to read, the presiding officer shall mark the paper of such voter. Further provisions on this point will be found in the rule referred to.

Offences at Elections.

Under the head of Offences at Elections, it is provided (*see* Clause 3) that any person who (1) forges, or fraudulently defaces, or fraudulently destroys any nomination paper, or delivers to the returning officer any nomination paper knowing it to be forged; or (2) forges or counterfeits, or fraudulently defaces or fraudulently destroys, any ballot paper or the official mark thereon; or (3) without due authority supplies any ballot paper to any person; or (4) fraudulently puts into any ballot box any paper other than the ballot paper which he is authorized by law to put in; or (5) fraudulently takes out of the polling station any ballot paper; or (6) without due authority destroys, takes, opens, or otherwise interferes with any ballot box or packets of ballot papers then in use, will be guilty of a misdemeanour, and will be liable, if a returning officer or clerk in attendance at a polling station, to imprisonment for two years, and if he is any other person, for six months, with or without hard labour. The effect of this clause will be found fully considered in the notes upon it (p. 41).

The Close of the Poll.

It is obviously of the highest importance to protect the ballot box and the ballot papers from being tampered with after the conclusion of the poll, and in the interval between that event and their delivery to the returning officer under whose direction the votes are to be counted. The provisoes with this object are to be found in Clause 2; and in Rules 29 and 30, Schedule I.

The Counting of the Votes and Declaration of the Poll.

The ballot boxes and the ballot papers, whether used, unused, or spoilt, having been transmitted to the returning officer, it becomes his duty to make arrangements for counting them, as soon as practicable, in the presence of the agents of the candidates. The general character of his duty in this respect is stated in Clause 2, while detailed instructions for its performance will be found in Rules 31 to 37, Schedule I. (p. 87), to which we must refer the reader. In counting the votes, questions may obviously arise as to the validity of particular ballot papers—whether they are filled up in the manner prescribed by the Act, and so on. Those questions it will be the duty of the returning officer to decide; and it is provided (Clause 2) that his decision shall be final, but subject to reversal on petition questioning the election or return.

When, as the result of the counting, an equality of

votes is found to exist between any candidates at an election for a county or borough, and the addition of a vote would entitle any of the candidates to be declared elected, the returning officer, *if a registered elector* of such county or borough, may give such additional vote, but is *not in any other case to vote at* an election for which he is returning officer. It will be observed that the Act makes no provision as to what is to be done if the returning officer does not happen to be a registered elector of the county or borough.

As soon as possible after the counting is concluded, the returning officer is to give public notice of the names of the candidates elected, and (in the case of a contested election) of the total number of votes given for each candidate (Rule 45, Schedule I.). It may be as well, although it is almost unnecessary, to remark here, that this official declaration of the poll will be the first information that the public will receive on the subject of the voting. If the ballot papers are deposited without disclosure in the ballot boxes, no one will, of course, be in a position to give any information as to the course of the poll; and even if any disclosure of their contents takes place, the provisions of Clause 4 (Infringement of secrecy) will no doubt be effectual in preventing any communication thereof by the persons in the polling booth to others outside. As to the manner in which the returning officer is to give notice of the result of the poll, *see* Rule 46, Schedule I.

The Return.—Scrutiny.

The returning officer is then to certify the names of the members elected to the Clerk of the Crown in Chancery (Clause 2, Rule 44, Schedule I.); and he is likewise to forward to the same official all the counterfoils, marked copies of the register, ballot papers, and other documents relating to the election in his possession. Each kind of document is to be made up into a separate sealed packet. These documents will be kept by the Clerk of the Crown for a year. The marked copy of the register, showing the persons who voted at an election, is to be open to public inspection, and may even be copied on such conditions as to time, place, and fees as a Secretary of State may prescribe. But as to the ballot papers and the counterfoils, it is provided (Rule 41, Schedule I.) that "no person shall, except by order of the House of Commons, or any tribunal having cognizance of petitions complaining of undue returns or undue elections, open the sealed packet of counterfoils after the same has been once sealed up, or be allowed to inspect any counted ballot papers in the custody of the Clerk of the Crown in Chancery; such order may be made subject to such conditions, as to persons, time, place, and mode of opening or inspection, as the House or the tribunal making the order may think expedient; provided that, on making and carrying into effect any such order, care shall be taken that the mode in which any particular elector has voted shall not be discovered until he has

been proved to have voted, and his vote has been declared by a competent court to be invalid." We have given the last provision in full, because it is one of considerable importance; and its effect may not be immediately apprehended without some explanation. It will be remembered that the ballot paper used in voting is to be separated from a counterfoil, and that the ballot paper and the counterfoil have corresponding numbers printed on the back of the one and the face of the other. At the time the ballot paper is given to the voter, the number of the voter on the register is marked on the counterfoil. The ballot paper and the counterfoil taken together thus show exactly how each voter has exercised the franchise; but in order that the vote may thus be disclosed, the two must be brought together. This the rule we have just referred to provides it is not to be done until it is proved that any particular elector has voted, and his vote has been declared by a competent court to be invalid. The fact that a particular elector has voted will appear from the marked copy of the register; and it is of course obvious that, in order to decide whether a vote is bad (either because the person who has given it has personated the actual elector, or for any other reason), it is wholly immaterial for whom it is given. That point will, therefore, be first investigated before the election judge on a petition. If he decides that the vote which A.B. gave was a good one, it will then remain a secret for whom A.B. gave it; if, on the other hand, his lordship decides that A.B.'s vote was a bad one, the

ballot paper and the counterfoil will then, but not till then, be put together, in order to show for which candidate it was given, and from whose total it must therefore be struck off.

Polling Places.

Under Clause 5, the "local authority of every county" (as to this, *see* note upon the clause, p. 45), is, as soon as practicable after the passing of the Act, to divide such county into polling districts, in such a manner that, "so far as is reasonably practicable," every elector resident in the county is to have a polling place not more than four miles from his residence. A polling district need not, however, be in any case constituted containing less than 100 registered electors. The "local authority" of every borough is likewise required "to take into consideration" the division of the borough into polling districts, and if they think it desirable, they are, by order, to divide the borough in such a manner as they deem most convenient. No election, whether for a county or a borough, is to be questioned on account of non-compliance with this section, or any informality relative to polling districts.

The returning officer at a *parliamentary* election may (Clause 6), for the purpose of taking the poll, use, *free of charge*, any room in a school receiving a parliamentary grant, and any room the expense of maintaining which is payable out of any local rate. Although, however, no rent or hire is payable for such a room, any damage

done to it is to be made good, as are also any expenses incurred by the persons or body having control over it, on account of its being used to take the poll (*see* note on Clause 6, p. 48). The same section also provides that the use of any room in an unoccupied house for the purpose of taking the poll, is not to render any one liable to be rated, or to pay any rate for such house.

Duties of Returning and Election Officers.

Upon the returning officers for counties or boroughs is cast the duty of providing nomination papers, polling stations, ballot boxes, &c.; of appointing such clerks and officers, and generally of doing such things as may be necessary to conduct an election in accordance with the Act. The expenses thus incurred are to be recouped to them in the same way as were the expenses of erecting polling booths before the passing of the Act. When a sheriff is returning officer for more than one county as defined for purposes of parliamentary elections—that is to say, for more than one riding or division of a county—he may appoint a deputy to act for him in any of the counties (Clause 8).

As a general rule, the returning officer will delegate the charge of each station to an official called in the Act the "presiding officer." Still, he may if he likes preside at any polling station (Rule 46, Schedule I.). By the following rule he is empowered to appoint and pay the assistants and clerks necessary for either taking the

votes or subsequently counting them; subject, however, to this condition (Rule 48), that he is not to appoint any one who has been employed by any other person in or about the election. Except ordering the arrest, exclusion, or ejection from the polling station of any person, the presiding officer may do, by the clerks appointed to assist him, anything which he is required or authorized to do by the Act (Rule 49).

By Clause 9, powers are conferred upon the presiding officer at a polling station to direct the removal from such station of any one who misconducts himself there, or fails to obey the lawful orders of the presiding officer. Any one thus removed may be kept in custody, if charged with the commission of any offence in the station (*see* Clause 3, Clause 24, and Appendix). But it is at the same time provided, that the powers thus conferred are not to be exercised so as to prevent any elector, otherwise entitled to vote at a polling station, from exercising the franchise.

For the purpose of the adjournment of the poll, and of every other enactment relating to the poll, the presiding officer is to have the power hitherto possessed by a deputy-returning officer (Clause 18), including the power of asking questions and administering the oaths allowed by law to be asked of and administered to voters. The last power may be exercised by his clerk.

Clause 11 provides for the punishment of returning officers, presiding officers, and clerks guilty of misconduct.

Returning and other officers and their clerks must, before the commencement of the poll, make a declaration of secrecy (Rule 53).

Agents.

The regulations with regard to the agents of candidates are contained in Rules 50 to 54 (Schedule I.). They provide that a candidate may act as his own agent, or may assist his agent, and may be present at any place where his agent is by this Act authorized to attend; that the names and addresses of agents appointed to attend the counting of votes must be sent to the returning officer one clear day at least before the opening of the poll; that, if an agent appointed to attend either at the polling or the counting of the votes dies, or becomes incapable of acting, the candidate may appoint another in his place; that the agent shall make the same declaration of secrecy as the returning or presiding officer; and that the non-attendance of agents at times or places when and where they are entitled to be present, shall not invalidate any act or thing done.

Computation of Time.

In reckoning time for the purposes of the Act, Sunday, Christmas Day, Good Friday, and days of public thanksgiving or fast, are to be excluded; and when anything is required to be done on a day which falls on one of the above-mentioned days, it is to be done on the day following (Rule 56, Schedule I.).

Miscellaneous.

No person who has voted at an election is *in any legal proceedings to question the election or return,* to be required to state for whom he has voted (Clause 12; and *see* note thereto, page 54).

Non-compliance with the rules in the First Schedule, or any mistake in the use of the forms in the Second Schedule, unless of a substantial character, are not to render an election invalid (Clause 13).

The municipal ballot boxes, &c., may be used for parliamentary elections, and *vice versâ* (Clause 14).

The only other points connected with the voting which we need notice here are—Rule 27 provides for the case of an elector who applies for a ballot paper after another person has duly voted in his name; while Rule 28 authorizes the presiding officer to issue a new ballot paper to any voter who has inadvertently spoiled the one first delivered to him.

Application of the Act to Scotland and Ireland.

Clause 16, and Rules 57 to 60, provide for certain modifications in the Act when applied to Scotland; while the case of Ireland is similarly dealt with by Clauses 17 to 19, and Rules 62 and 63.

PART II.

Municipal Elections.

It will be observed, that the Act contains no provision whatever with reference to the nominations at municipal elections. That being the case, those nominations will be conducted in exactly the same manner as they have hitherto been under the Act, 22 Vict. c. 35.

The polling will, however, in future be by a ballot, taken in the same way as at parliamentary elections. The mode of voting will be identical in both cases; and, so far as that goes, all the provisions we have cited, and everything we have said with respect to parliamentary elections will apply equally to those of municipal contests. There are, however, some differences in the law applicable to the two cases, on points not directly connected with the voting. To these (which are dealt with in Clause 20, and by Rule 64, Schedule I.) we shall now advert. The term "returning officer," in the first part of the Act, is, for the purposes of the second part, to mean the mayor or other officer who, under the law applicable to municipal elections, presides at such elections; the expression "register of votes" is to mean burgess-roll or ward-list; the term "petition questioning the election or return," to mean any proceedings in which a municipal election can be questioned; everything which at a parliamentary election is provided for the purpose of the poll by the returning officer, is at a municipal provided by the mayor, the expense being defrayed

in the same way as the charges of municipal elections are now borne; no return is to be made to the Clerk of the Crown in Chancery, but all documents, &c., which, in the case of a parliamentary election are to be forwarded to and kept by that official, are, in the case of a municipal election, to be deposited with the town clerk, and orders to inspect them are to be obtained from the county court or from any tribunal before which a municipal election is questioned, under regulations to be prescribed by the council of the borough, with the consent of a Secretary of State; nothing in the Act is to be deemed to authorize the appointment of any agents of a candidate in a municipal election; but if such agents are appointed, then the provisions with respect to them in the first part of the Act are to apply.

It is important to observe, that the provisions of the Act with respect to the voting of a returning officer;* to the use of a school-room for taking a poll;† and to the right to vote of persons whose names are on the register of voters,‡ *do not apply to municipal elections;* and that, except in so far as regards the taking of the poll, such an election is to be conducted in the same manner as if this Act had not passed.

Clause 21 abolishes ward assessors; while Clauses 22 and 23, and Rules 65 and 66, Schedule I., contain the modifications necessary for the application of the Act to Scotland and Ireland.

* Clause 2. † Clause 6. ‡ Clause 7

PART III.

PERSONATION.

THIS part of the Act, which deals with the offence of Personation, applies both to parliamentary and municipal elections. Indeed, it has a more extensive application than any other portion of the Act, since it is the only one which applies to elections for a University or a combination of Universities.

The clauses of which it consists are those from 24 to 27. Every person is guilty of personation who "*applies* for a ballot paper (1) in the name of some other person, whether that name be that of a person living or dead, or of a fictitious person; or (2) who, having voted once at any such election, applies at the same election for a ballot paper in his own name."

Formerly, personation was only a misdemeanour; but now, not merely is the actual commission of the offence, as above defined, a felony, punishable with imprisonment for two years with hard labour, but it is also felony to aid, abet, counsel, or procure its commission. Moreover, the duty of prosecuting any person whom he may believe to have been guilty—either of the offence of aiding or abetting in its commission, is imposed upon the returning officer. The offence of personation is rendered a corrupt practice within the meaning of the Parliamentary Elections Act, 1868.* A candidate for a county or borough found guilty, by

* See, as to the effect of this, note p. 72.

an election judge, of having, by himself or his agents, either committed personation, or aided, abetted, &c., its commission, is declared incapable of being elected or sitting in Parliament for such county or borough during the Parliament then in existence. Finally, provision is made for striking off, on a scrutiny, votes rendered by personation or procured by bribery, treating, and undue influence.

PART IV.

MISCELLANEOUS.—DURATION OF ACT.

THE only provisions in this part of the Act with which we need trouble ourselves are—the 28th clause, which provides that the Schedule to the Act and the notes thereto and directions therein, shall be construed and have effect as part of the Act; the 30th clause, which enacts that the Act shall apply to any parliamentary or municipal election which may be held after its passing (July 18th, 1872), and the 33rd, which gives the short title of the measure as "The Ballot Act, 1872." And provides that the Act shall continue in force till the 31st day of December, 1880, *and no longer,* unless Parliament shall otherwise determine. The other clauses in this part are of an essentially technical character. The Act itself is followed by six Schedules. The first contains the rules for the conduct of parliamentary and municipal elections, which we have noticed under the heads of the

Act to which they apply. The second contains a variety of forms to be used at elections, and to them we have also referred in connection with the particular provisions to which they relate. The third sets out the provisions of the Registration Acts which are to apply to personation under this Act in England and Ireland. The fourth, fifth, and sixth, repeal a variety of Acts or parts of Acts relating to England, Scotland, or Ireland respectively.

35 & 36 VICT., CAP. 33.

[18th July, 1872.]

An Act to amend the Law relating to Procedure at Parliamentary and Municipal Elections.

WHEREAS it is expedient to amend the law relating to procedure at parliamentary and municipal elections:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

PART I.

PARLIAMENTARY ELECTIONS.

Procedure at Elections.

1. *Nomination of Candidates for Parliamentary Elections.*—A candidate for election to serve in Parliament for a county or borough shall be nominated in writing.* The writing shall be subscribed by two registered electors of such county or borough as proposer and seconder, and by eight other registered

* See Rules 5, 6, and 7, Schedule I. For form of nomination paper, see Schedule II., p. 105.

electors of the same county or borough as assenting to the nomination, and shall be delivered during the time appointed for the election * to the returning officer by the candidate himself, or his proposer or seconder.†

If at the expiration of one hour after the time appointed for the election no more candidates stand nominated than there are vacancies to be filled up, the returning officer shall forthwith declare the candidates who may stand nominated to be elected, and return their names to the Clerk of the Crown in Chancery; ‡ but if at the expiration of such hour more candidates stand nominated than there are vacancies to be filled up, the returning officer shall adjourn the election, and shall take a poll in manner in this Act mentioned.§

A candidate may, during the time appointed for the election, but not afterwards, withdraw from his candidature by giving a notice to that effect, signed by him,

* Rules 1 to 4 and Rule 8, Schedule I. The latter rule also prescribes the number and description of the persons who may be present at the nomination. It should be observed at the outset, that with the exception of Part III., relating to Personation, the operation of this Act is confined to borough and county elections. Part III. is the only portion of it which applies to elections for the Universities, which will, so far as relates to the nomination of the candidates, and as to the mode of voting, still continue to be conducted as before the passing of the Act.

† Rule 8, Schedule I. Immediately the nomination is received it must be published in the manner prescribed by Rule 11. Rules 12 and 13, in the same schedule, provide that no person shall be entitled to have his name inserted in any ballot paper as a candidate unless he has been nominated in the mode prescribed by the Act; that every person whose nomination paper has been delivered to the returning officer during the time appointed for the election shall be taken (unless the nomination is objected to as therein mentioned) to have been duly nominated; and that the decision of the returning officer disallowing an objection shall be final, while his decision allowing an objection shall be subject to reversal on petition.

‡ See Rule 43, Schedule I., as to the mode in which the return is to be made.

§ See Rule 9, Schedule I., for the steps to be taken by the returning officer with respect to giving notice of the polling day, &c.

to the returning officer: Provided that the proposer of a candidate nominated in his absence out of the United Kingdom may withdraw such candidate by a written notice signed by him and delivered to the returning officer, together with a written declaration of such absence of the candidate.* If, after the adjournment of an election by the returning officer for the purpose of taking a poll, one of the candidates nominated shall die before the poll has commenced, the returning officer shall, upon being satisfied of the fact of such death, countermand notice of the poll, and all the proceedings with reference to the election shall be commenced afresh, in all respects, as if the writ had been received by the returning officer on the day on which proof was given to him of such death; provided that no fresh nomination shall be necessary in the case of a candidate who stood nominated at the time of the countermand of the poll.

2. *Poll at Elections.*—In the case of a poll at an election the votes shall be given by ballot.† The ballot of each voter shall consist of a paper (in this Act called a ballot paper) showing the names and description of the candidates. Each ballot paper shall have a number printed on the back, and shall have attached a counterfoil, with the same number printed on the face. At the time of voting, the ballot paper

* The power of a proposer to withdraw a candidate depends upon the latter being in fact out of the country at the time of his nomination. It would seem, therefore, that if a proposer were, either in mistake or from wilful falsehood, to declare that a candidate is absent from the United Kingdom when such is not the case, the election might be avoided on petition on the ground that a candidate had been improperly withdrawn. See, as to notice of the withdrawal of a candidate, Rule 10, Schedule I.

† The manner of conducting the poll and the mode of filling up the ballot papers are the subject of careful and elaborate regulation by Rules 14 to 28 of Schedule I., which must be consulted for the details of the election.

shall be marked on both sides with an official mark, and delivered to the voter within the polling station, and the number of such voter on the register of voters shall be marked on the counterfoil, and the voter having secretly marked his vote on the paper, and folded it up so as to conceal his vote, shall place it in a closed box in the presence of the officer presiding at the polling station (in this Act called "the presiding officer") after having shown to him the official mark at the back.*

Any ballot paper which has not on its back the official mark, or on which votes are given to more candidates than the voter is entitled to vote for, or on which anything except the said number on the back is written or marked, by which the voter can be identified, shall be void and not counted.

After the close of the poll,† the ballot boxes shall be sealed up, so as to prevent the introduction of additional ballot papers, and shall be taken charge of by the returning officer, and that officer shall, in the presence of such agents, if any, of the candidates as may be in attendance, open the ballot boxes, and ascertain the result of the poll, by counting the votes given to each candidate, and shall forthwith declare to be elected the candidates or candidate to whom the

* This clause, together with Rule 25, Schedule I., and a form of directions for the guidance of the voter in Schedule II., are supposed to render the observance of secrecy in voting compulsory. How far they really effect this object, is a question of too much importance for discussion in a note. Indeed, it is, by the confession of both the friends and opponents of the Ballot, the vital point of the Bill. We have therefore treated the subject in the Introduction (pp. 9—17), where we have given fully our reasons for thinking that the Act has not in reality the effect attributed to it, but that a voter may, without incurring any risk of punishment, display his ballot paper in the polling station.

† As to what is to be done on the close of the poll, &c., see Rules 29 and 30, Schedule I.

majority of votes have been given, and return their names to the Clerk of the Crown in Chancery.* The decision of the returning officer as to any question arising in respect of any ballot paper shall be final, subject to reversal on petition questioning the election or return.

Where an equality† of votes is found to exist between any candidates at an election for a county or borough, and the addition of a vote would entitle any of such candidates to be declared elected, the returning officer, if a registered elector‡ of such county or borough, may give such additional vote, but shall not in any other case be entitled to vote at an election for which he is returning officer.

Offences at Elections.

3. *Offences in respect of Nomination Papers, Ballot Papers, and Ballot Boxes.*—Every person who,—

(1.) Forges,§ or fraudulently defaces, or fraudulently destroys any nomination paper, or

* As to the return to the Clerk of the Crown in Chancery, and as to the duties of this official, see Rules 38 to 43, Schedule I.

† Rules 31 to 37, Schedule I., regulate the counting of the votes.

‡ It is no doubt very seldom that a returning officer is not a registered elector of the borough or county for which he acts. But he need not be; and it will be observed that the Act makes no provision for such a contingency. If it should occur, the returning officer would have to make a double return—that is, to return both the members for whom the same number of votes had been given, leaving it to either or both of them to claim the seat on petition. The returning officer may, indeed, pursue that course in all cases, as he is only empowered, and is not required, to give a casting vote.

§ Forgery is "the fraudulent making or alteration of a writing to the prejudice of another man's right." It is not, however, necessary in order to constitute the offence that there should be an intent to defraud any particular person. A general intent to defraud is sufficient to constitute the crime. The offence of forgery may be complete though there be no publication or uttering of the forged instru-

delivers to the returning officer any nomination paper, knowing the same to be forged; or

(2.) Forges or counterfeits or fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper; or

(3.) Without due authority supplies * any ballot paper to any person; or

(4.) Fraudulently puts into any ballot box any paper other than the ballot paper which he is authorized by law to put in; or †

(5.) Fraudulently takes out of the polling station any ballot paper; or

ment. For the very making with a fraudulent intention and without lawful authority of any instrument which in common law or by statute is the subject of forgery, is of itself a sufficient completion of the offence before publication; and though the publication of the instrument be the medium by which the intent is usually made manifest, yet it may be proved as plainly by other evidence. Not only the fabrication and false making of a written instrument, but a fraudulent insertion, alteration or erasure even of a letter in any material part of a true instrument whereby a new operation is given to it, will amount to forgery; and this although it be afterwards executed by another person ignorant of the deceit. And the fraudulent application of a true signature to a false instrument for which it was not intended, or *vice versâ*, will also be forgery. (*See Russell's Crimes and Misdemeanours*, Cap. "Forgery".)

* The only person who can lawfully supply a voter with a ballot paper is the presiding officer at a polling station, or some one acting under his directions. Any other person doing so will commit an offence under this section, even although the official mark had not at the time been placed upon the paper.

† This and the next paragraph of the clause are intended to prevent the carrying out of an arrangement under which, if successfully conducted, corruption might be readily practised. A voter will only receive one voting paper: if, then, he were to put a piece of blank paper into the ballot box, and to bring away the voting paper supplied to him, it is clear he would be in a position to satisfy any one that he had not voted, and to claim any sum that might have been promised him on the contingency. But that is not all; if a real voting paper, stamped with the official mark, was once

(6.) Without due authority* destroys, takes, opens, or otherwise interferes with any ballot box, or packet of ballot papers then in use for the purposes of the election ;

shall be guilty of a misdemeanour, and be liable if he is a returning officer or an officer or clerk in attendance at a polling station, to imprisonment for any term not exceeding two years, with or without hard labour, and if he is any other person, to imprisonment for any term not exceeding six months, with or without hard labour.

Any attempt to commit any offence specified in this section shall be punishable in the manner in which the offence itself is punishable.

In any indictment or other prosecution for an offence in relation to the nomination papers, ballot boxes, ballot papers, and marking instruments at an election, the property in such papers, boxes, and instruments may

brought out of the booth, say by A, that might be filled up with the name of a candidate, and given to B, B would then take it into the booth, and place it in the ballot box, bringing out the voting paper supplied to him, which would in turn be filled up and passed to C, and so on. If the briber outside the booth could make sure that B, C, and so on, had no other voting paper than the one filled up by him when they entered the polling booth, he would be able to ascertain with tolerable certainty whether they voted for the "right" man. The production, on their return from the booth, of the blank voting paper supplied to them would be proof that they had not voted for any one else. The agent inside the booth would be able to observe whether they put in a real voting paper, marked on the back with an official stamp. If they did, it is clear that it could only be the one surreptitiously obtained ; and thus the only risk which the briber would have to run would be that of their spoiling or obliterating the paper, so as to render it invalid. But, even in that case, he would be quite certain that if the vote is not given for, at any rate it is not given *against*, his candidate.

* The presiding officer at a polling station, or the returning officer and his assistants, are the only persons authorized to do any of the acts referred to in this paragraph. See Rule 29 and Rules 31 to 37, Schedule I.

be stated to be in the returning officer at such election, as well as the property in the counterfoils.

4. *Infringement of Secrecy.*—Every officer, clerk, and agent in attendance at a polling station shall maintain and aid in maintaining the secrecy of the voting in such station, and shall not communicate,* except for some purpose authorized by law, before the poll is closed, to any person any information as to the name or number on the register of voters of any elector who has or has not applied for a ballot paper or voted at that station, or as to the official mark,† and no such officer, clerk, or agent, and no person whosoever, shall interfere with or attempt to interfere with a voter when marking his vote, or otherwise attempt to obtain in the polling station information as to the candidate for whom any voter in such station is about to vote or has voted, or communicate at any time to any person any information obtained in a polling station as to the candidate for whom any voter in such station is about to vote or has voted; or as to the number on the back of the ballot paper given to any voter at such station. Every officer, clerk, and agent in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and shall not attempt to ascertain at such counting the number on the back of any ballot paper, or communicate any information obtained at such counting as to the candidate for whom any vote is given in any particular ballot paper. No person shall directly or indirectly induce any voter to

* The only case in which the communication, before the close of the poll, of the name or number of an elector who has or has not applied for a ballot paper, will not be a violation of this clause, is when another person subsequently applies for a voting paper in the same name or number. The fact of a vote having been previously given in that name or number may then be made known.

† As to the official mark, see Rules 20 and 24, Schedule I.

display his ballot paper after he shall have marked the same, so as to make known to any person the name of the candidate for or against whom he has so marked his vote.*

Every person who acts in contravention of the provisions of this section, shall be liable, on summary conviction before two justices of the peace, to imprisonment for any term not exceeding six months, with or without hard labour.

Amendment of Law.

5. *Division of Counties and Boroughs into Polling*

* This section, it will be observed, does not apply to the voter himself; it is entirely confined to the object of preventing (1) any infringement of secrecy on the part of officers, clerks, or agents engaged in a polling booth; and (2) any efforts on the part of any one to induce voters to display their marked papers in the polling station. Whatever may be the case with respect to a voter who *voluntarily* shows his paper, there can be no doubt as to the fate of any one who induces him to do so—assuming that the latter is convicted. There is, however, reason to apprehend that it will only be too easy to evade both portions of the section. If an agent becomes acquainted with the manner in which a voter has filled up his paper, it will not be difficult for him, without actually communicating the information, to make it perfectly well understood whether the man has or has not voted as those who desire to influence, or have bought his vote, would desire. It will be still more easy for any individual, or any body or society, who have the power to coerce a voter, to convey to him an unmistakable expression of their will in the form of strong denunciations of the Ballot as a vicious, unmanly, or un-English system of voting. For their purpose that would be quite sufficient, while it would certainly not constitute the penal offence of either directly or indirectly inducing a voter to display his ballot paper. Although during the discussion in the House of Commons, and more especially after the defeat of Mr. Leatham's amendment, Mr. Forster and other members of the Government laid considerable stress on this clause as a valuable security for the maintenance of secrecy, we cannot attach the same importance to it. That portion of it which is directed against the disclosure, during the hours of polling, of the name or number of any voter who has or has not applied for a ballot paper, or voted, may no doubt be regarded as having a substantial character; but as to the other provisions, their value seems to us to be in an inverse ratio to the probability of their being called into action.

Districts.—The local authority (as hereinafter defined)* of every county shall by order, as soon as may be practicable after the passing of this Act, divide such county into polling districts, and assign a polling place to each district, in such manner that, so far as is reasonably practicable,† every elector resident in the county shall have a polling place within a distance not exceeding four miles ‡ from his residence, so, nevertheless, that a polling district need not in any case be constituted containing less than one hundred registered electors.

The local authority (as hereinafter defined) of every borough shall take into consideration the division of such borough into polling districts; and if they think it desirable, by order, divide such borough into polling districts in such manner as they may think most convenient for taking the votes of the electors at a poll.

The local authority of every county and borough shall, on or before the 1st day of May, 1873, send to one of Her Majesty's Principal Secretaries of State, to be laid by him before both Houses of Parliament, a

* See, for the definitions of the "local authorities," the 4th paragraph of the present clause.

† It is almost unnecessary to point out the extreme looseness of this phrase. The Act contains no mention of the circumstances under which it will not be considered *reasonably* practicable to have a polling place within four miles of each voter's residence. Under these circumstances it is impossible to say what construction these words will receive until they have been subjected to judicial contemplation.

‡ The Act does not say how the four miles are to be reckoned. In the absence of any express directions on the point, the court would most likely adopt the mode of measurement pointed out in the 6 Vict. c. 18, s. 76. That Act directs, that in order to ascertain whether a person claiming to vote for a borough resides outside the prescribed limit, "the distance is to be measured in a straight line on a horizontal plane from the point within any city, or borough, or place sharing in the election therewith, from which the distance is to be measured." If there be an ordnance map which includes both termini, the distance may be measured on the map.

copy of any order made by such authority in pursuance of this section, and a report, in such form as he may require, stating how far the provisions of this Act with respect to polling districts have been complied with in their county or borough; and if they make any order after the 1st day of May, 1873, with respect to polling districts or polling places in their county or borough, they shall send a copy of such order to the said Secretary of State, to be laid by him before both Houses of Parliament.

The local authority of a county or borough in this section means the authority having power to divide such county or borough into polling districts under section thirty-four * of the Representation of the People Act, 1867, and any enactments amending that section; and such authority shall exercise the powers thereby given to them for the purposes of this section; and the provisions of the said section as to the local authority of a borough constituted by the combination of two or more municipal boroughs shall apply to a borough constituted by the combination of a municipal borough and other places, whether municipal boroughs or not; and, in the case of a borough of which a town council is not the local authority, and which is not wholly situate within one

* The 30 & 31 Vict. c. 102, sec. 34. Under this section the justices of the peace having jurisdiction for a county or the larger part thereof, assembled in some court of general or quarter sessions, are the local authority for a county. In every municipal borough and in every borough any part of which forms a municipal borough, the town council of such borough is the local authority; and in other boroughs the justices of the peace acting for such borough, or if there be no such justices, then the justices acting for the division of the county in which such borough or the greater part thereof is situate; and in cases where a parliamentary borough is constituted by the combination of two or more municipal boroughs, then the town council of the borough in which the nomination takes place is the local authority.

petty sessional division, the justices of the peace for the county, in which such borough, or the larger part thereof in area, is situate, assembled at some court of general or quarter sessions, or at some adjournment thereof, shall be the local authority thereof, and shall for this purpose have jurisdiction over the whole of such borough; and in the case of such borough and of a county, a court of general sessions shall be assembled within twenty-one days after the passing of this Act, and any such court may be assembled and adjourned from time to time for the purpose.

No election shall be questioned by reason of any non-compliance with this section or any informality relative to polling districts or polling places, and any order made by a local authority in relation to polling districts or polling places shall apply only to lists of voters made subsequently to its date, and to registers of voters formed out of such lists, and to elections held after the time at which a register of voters so formed has come into force: Provided that where any such order is made between the first day of July and the first day of November in any year, and does not create any new division between two or more polling districts of any parish for which a separate poor rate is or can be made, such order shall apply to the register of voters which comes into force next after such order is made, and to elections held after that register so comes into force; and the clerk of the peace or town clerk, as the case may be, shall copy, print, and arrange the lists of voters for the purpose of such register in accordance with such order.*

6. *Use of School and Public Room for Poll.*—The returning officer at a parliamentary election may use,

* No order of the kind referred to can therefore come into operation until the 1st day of November next following that on which it is made.

free of charge, for the purpose of taking the poll at such election, any room in a school receiving a grant out of moneys provided by Parliament, and any room the expense of maintaining which is payable out of any local rate,* but he shall make good any damage done to such room, and defray any expense † incurred by the person or body of persons corporate or unincorporate having control over the same on account of its being used for the purpose of taking the poll as aforesaid.

The use of any room in an unoccupied house for the purpose of taking the poll shall not render any person liable to be rated, or to pay any rate for such house.

7. *Conclusiveness of Register of Voters.*—At any election for a county or borough, a person shall not be entitled to vote unless his name is on the register of voters for the time being in force for such county or borough, and every person whose name is on such register shall be entitled to demand and receive a ballot paper and to vote: Provided that nothing in this sec-

* Under these words, the room of a school supported out of the rates, but not receiving a parliamentary grant, might be used. It is almost unnecessary to say that they apply also to rooms other than school-rooms, such as town halls, &c., which are maintained out of the rates.

† This expression is not so precise as it might be, and will probably give rise to some dispute as to the expenses which may be charged to the returning officer. It will, however, probably be held not to extend further than to enable the proprietors of the school-room to recover any charges to which they may be put in cleaning the school-room, or otherwise restoring it, after its use as a polling booth, to a state fit for the reception of the children. Any positive damage done will be the subject of a claim under the immediately previous words of the clause. Under the head of "damage" the loss sustained by the school in respect of the interruption of the attendance of the scholars would not be included. That case has, however, been met by an amendment of the Revised code, which provides that the days on which a school is deprived of its room under this clause shall count, as if the school met on those days, for the purpose of reckoning the attendance on which the parliamentary grant is calculated.

tion shall entitle any person to vote who is prohibited from voting by any statute, or by the common law of Parliament, or relieve such person from any penalties to which he may be liable for voting.*

* Aliens, infants, idiots, lunatics, or persons in a state of drunkenness cannot vote. The officers and men of the metropolitan and city police, and the metropolitan police magistrates, are forbidden to vote while in the respective police forces, or holding the offices mentioned, or within six months afterwards, in the counties of Middlesex, Surrey, Hertford, Essex, or Kent, or within any borough within the metropolitan districts. A similar prohibition extends to the Dublin police and police magistrates, to the royal Irish constabulary, to constables in Scotland, and to the rural police with respect to the district for which they act. Then, by the 30 & 31 Vict. c. 102, s. 11, "No elector who, within six months before or during any election for any county or borough, shall be retained, hired, or employed, for all or any of the purposes of the election for reward, by or on behalf of any candidate at such election, as agent, canvasser, clerk, messenger, or in any other like employment, shall be entitled to vote at such election, and, if he shall vote, shall be guilty of misdemeanour." The Scotch and Irish Acts, 31 & 32 Vict. cc. 48 & 49, contain a similar provision. By the 17 & 18 Vict. c. 102, any person guilty of bribery or undue influence under the Act is guilty of a misdemeanour; any candidate guilty of treating is liable to certain penalties; and upon conviction thereof, criminally, or upon judgment in any penal action under the Act, all are liable to perpetual disqualification. By the 31 & 32 Vict. c. 125, s. 45, any candidate found personally guilty of bribery at any election, and any other person found guilty of bribery "in any process in which, after notice of the charge, he has had an opportunity of being heard [for instance, on the trial of an election petition], shall be incapable of voting for five years from the time he is so found guilty." By s. 4 of 17 & 18 Vict. c. 102, any voter corruptly accepting any entertainment shall be incapable of voting at the *then* election, and his vote, if given, shall be void. Persons convicted of bribery at a municipal election are disqualified for ever, and for all places, by 5 & 6 Wm. IV. c. 76, s. 54. Persons who are or who have been, within a certain time, in the receipt of parochial relief, or dependent, wholly or partly, upon eleemosynary assistance, are disqualified from voting both by the common law and various statutes. (See *Rogers on Elections*, p. 195.) Convict felons are disqualified from voting, even if released under a ticket-of-leave, until they have received the pardon of the Crown, or the period of their sentence has expired. The vote of a convicted misdemeanant would be perfectly good if he could give it; but then as he cannot do this so long as he is in prison, he cannot be said to be in a materially better position than the felon.

Duties of Returning and Election Officers.

8. *General Powers and Duties of Returning Officer.*—Subject to the provisions of this Act, every returning officer shall provide such nomination papers, polling stations, ballot boxes, ballot papers, stamping instruments, copies of register of voters, and other things, appoint and pay such officers, and do such other acts and things as may be necessary for effectually conducting an election in manner provided by this Act.

All expenses properly incurred by any returning officer in carrying into effect the provisions of this Act, in the case of any parliamentary election, shall be payable in the same manner as expenses incurred in the erection of polling booths at such election are by law payable.*

Where the sheriff is returning officer for more than one county as defined for the purposes of parliamentary

* By sec. 71 of 2 Wm. IV. c. 45 (the Irish Act to the same effect being 13 & 14 Vict. c. 68), the erection of booths is to be at the joint expense of the candidates, and may, if they think fit, be erected by contract with the candidates'; or if not, then the returning officer is to erect them at the expense of the candidates. See, as to Scotland, 31 & 32 Vict. c. 48, s. 26. But a returning officer must be cautious how he incurs expense without a private guarantee or a written authority to proceed; for in *Muntz* v. *Sturge*, 8 M. & W. 302, it is decided that the word *candidate* in the above section of the 2 Wm. IV. c. 45, only applied to one *who went to the poll;* and that the defendant, who had been put in nomination, but afterwards declined to go to the poll, was not liable for a share of these expenses for which the returning officer had sued him. If any person is proposed without the candidate's consent, the proposer will be liable for such candidate's share of the expenses. The cost for a booth or booths at any one place is not to exceed £40 for a county election; and at a borough election it is not to exceed £25 for a booth or booths in any one parish or division. In Ireland it is not to exceed £3 if in a public building, or £5 if elsewhere, both in counties and boroughs.—*Rogers on Elections*, p. 275.

elections,* he may, without prejudice to any other power, by writing under his hand, appoint a fit person to be his deputy for all or any of the purposes relating to an election in any such county, and may, by himself or such deputy, exercise any powers and do any things which the returning officer is authorized or required to exercise or do in relation to such election. Every such deputy, and also any under-sheriff, shall, in so far as he acts as returning officer, be deemed to be included in the term returning officer in the provisions of this Act relating to parliamentary elections, and the enactments with which this part of this Act is to be construed as one.

9. *Keeping of Order in Station.*—If any person misconducts himself in the polling station, or fails to obey the lawful orders of the presiding officer, he may immediately, by order of the presiding officer, be removed from the polling station by any constable in or near that station, or any other person authorized in writing by the returning officer to remove him; and the person so removed shall not, unless with the permission of the presiding officer, again be allowed to enter the polling station during the day.

Any person so removed as aforesaid, if charged with the commission in such station of any offence, may be kept in custody until he can be brought before a justice of the peace.

Provided that the powers conferred by this section shall not be exercised so as to prevent any elector who

* For the purposes of parliamentary elections, the ridings or other divisions of a county which form independent constituencies are considered as separate counties. The sheriff of the whole county is, however, the returning officer for the whole of the divisions of which a county in the geographical sense is composed. This clause enables him to delegate his authority "for *one* or *any* of the purposes," &c., to a deputy for each riding or division.

is otherwise entitled to vote at any polling station from having an opportunity of voting at such station.*

10. *Powers of Presiding Officer and Administration of Oaths, &c.*—For the purpose of the adjournment of the poll, and of every other enactment relating to the poll, a presiding officer shall have the power by law belonging to a deputy returning officer;† and any

* Under this section the presiding officer may order any one who (1) misconducts himself in the polling station, or (2) fails to obey the lawful orders of such presiding officer to be removed from the booth. Under the first head will be included, not only riotous and disorderly conduct, but the commission of any of the offences mentioned in the third clause. Under the second head, an elector who insists on remaining in the polling booth, except for such time as is necessary for voting, may be turned out. Unless the misconduct of the elector or other person amounts to an offence, the power of the returning officer extends no further than to cause his removal from the polling booth. If, however, he has committed such an offence, he may be detained in custody until he can be brought before a magistrate. But then, by the last paragraph of the clause, the presiding officer must not exercise his powers so as to "prevent any elector who is otherwise entitled to vote from having an opportunity of voting." In the case of persons merely removed from the booth for impropriety of conduct, this would render it necessary for the presiding officer either to give them an opportunity of voting before they were ejected, or to allow them to return again for the purpose of recording their vote—subject of course to the risk of being again expelled if they did not behave properly. A question may, however, arise as to what is to be done in case a person is charged with the commission of an offence for which he may be kept in custody. It seems by no means clear whether he would be entitled to vote before his removal from the booth, or might demand to be brought back, even in custody, to record his vote. On this point the language of the clause is entirely wanting in precision.

† By 2 Wm. IV. c. 45, ss. 70 & 73, deputy returning officers have the same power of asking questions, administering oaths, appointing commissioners to administer oaths, adjourning the poll in case of riot, closing the poll at their discretion [It would seem that the returning officer may close the poll before the appointed time, if no one comes to poll, on giving reasonable notice of his intention, but practically, this power is never, nor is likely to be ever exercised, except at the universities, when, otherwise, the poll might be kept open for five days, and long after the contest had practically ceased], as sheriffs or other returning officers; and at county elections, of acting in places having any exclusive jurisdiction or privilege, as the sheriff or his under-sheriff. As to

presiding officer, and any clerk, appointed by the returning officer to attend at a polling station, shall have the power of asking the questions and administering the oath authorized by law * to be asked of and administered to voters, and any justice of the peace, and any returning officer may take and receive any declaration authorized by this Act to be taken before him.†

11. *Liability of Officers for Misconduct.*—Every returning officer, presiding officer, and clerk who is guilty of any wilful misfeasance or any wilful act or omission in contravention of this Act shall, in addition to any other penalty or liability to which he may be subject, forfeit to any person aggrieved by such misfeasance, act, or omission a penal sum not exceeding one hundred pounds. ‡

the powers of a presiding officer in cases of attempted personation, see *post*, p. 71.

* The following is the form of the only oath now allowed to be administered (6 Vict. c. 18, s. 81) : "You do swear" [*or* affirm, *as the case may be*] "that you are the same person whose name appears as A.B. in the register of voters now in force for the county of [*or* for the riding, parts, *or* division of the county of *or* for the county, *or* borough of *as the case may be*], and that you have not voted either here or elsewhere at the present election for the county of [*or*, for the riding, parts, or ( ) division of the county of] *or* for the city *or* borough of [*as the case may be*]. So help you God."

† See Rule 26, Schedule I., as to the declaration to be made before the presiding officer by a voter who is unable to read.

‡ Under the 97th section of the 6th & 7th Vict. c. 18, the above penalty, "or such less sum as the jury before whom may be tried any action to be brought for the recovery of the before-mentioned sum shall consider to be just," is "to be recovered by such party" [*i.e.* the party bringing the action], "with full costs of suit by action for debt in any of Her Majesty's courts at Westminster : Provided always that nothing herein contained shall be construed to supersede any remedy or action against any returning officer according to any law now in force.

Section fifty of the Representation of the People Act, 1867 (which relates to the acting of any returning officer, or his partner, or clerk, as agent for a candidate), shall apply to any returning officer, or officer appointed by him, in pursuance of this Act, and to his partner or clerk.*

Miscellaneous.

12. *Prohibition of Disclosure of Vote.*—No person who has voted at an election shall, in any legal proceeding to question the election or return, be required to state for whom he has voted.†

13. *Non-compliance with Rules.*—No election shall be declared invalid by reason of a non-compliance with the rules contained in the First Schedule to this Act, or any mistake in the use of the forms in the Second Schedule to this Act, if it appears to the tribunal having cognizance of the question that the election

* The section above referred to is as follows:—"No returning officer for any county or borough, nor his deputy, nor any partner or clerk of either of them, shall act as agent for any candidate in the management or conduct of his election as a member to serve in Parliament for such county or borough; and if any returning officer, his deputy, the partner or clerk of either of them shall so act, he shall be guilty of a misdemeanour."

† It will be observed that the protection given to the voter by this clause is confined to the case of legal proceedings to question the election or return—in other words, to an inquiry on a petition before an election judge. In any other proceeding, when the manner in which a vote was given becomes material, the elector might be compelled to disclose the way in which he had exercised the franchise. Suppose, for example, that a person were to write and publish of another that the latter was a liar and a scoundrel, inasmuch as that, although he had promised to vote, or had declared that he had voted, for A, he had, in fact, voted for B. That would, of course, be a libel. If an action was brought for such a libel and a justification were pleaded, the manner in which the vote was given would be a material fact, on which the voter would be compellable to give evidence.

was conducted in accordance with the principles laid down in the body of this Act, and that such non-compliance or mistake did not affect the result of the election.*

14. *Use of Municipal Ballot Boxes, &c., for Parliamentary Election, and vice versâ.*—Where a parliamentary borough and municipal borough occupy the whole or any part of the same area, any ballot boxes or fittings for polling stations and compartments provided for such parliamentary borough or such municipal borough may be used in any municipal or parliamentary election in such borough free of charge, and any damage, other than reasonable wear and tear caused to the same, shall be paid as part of the expenses of the election at which they are so used.†

* This clause invests the election judge to whom a petition is referred with an almost unlimited discretion as to what violation of rules or mistakes in the use of forms he will hold sufficient or insufficient to invalidate an election. No doubt the exercise of this discretion must be judicial and not merely capricious, but, considering that his only guide will be "the principles laid down in the body of this Act," or his own opinion as to the extent to which the non-compliance or mistake affected the result of the election, it is evident that his judgment will be but slightly fettered. It is, at all events, quite impossible to predict what variations from the rules or forms will be considered harmless or the reverse by particular judges or under the varying circumstances of different cases. For even an approximate construction of this clause, we must be content to wait until a series of judicial decisions shall have indicated, at any rate in a general way, the limit of the deviations from strict practice which will be held admissible.

† With the exception of such incidental and bye-elections as may previously occur, this Act will first come into operation at the municipal elections in November next. It follows, therefore, that it will in nearly all cases devolve upon the mayor (as mayor, and not as parliamentary returning officer) to provide the ballot boxes, fittings, &c., for the boroughs referred to in this clause, and that the cost of providing them will have to be defrayed out of the municipal funds. On the other hand, if a bye-election takes place in any such borough before the 1st November next, the returning officer will have to produce the articles in question, and their cost will then be defrayed by the candidates at such election. When once provided, any damage, "other than reason-

15. *Construction of Act.*—This part of this Act shall, so far as is consistent with the tenor thereof, be construed as one with the enactments for the time being in force, relating to the representation of the people, and to the registration of persons entitled to vote at the election of members to serve in Parliament, and with any enactments otherwise relating to the subject-matter of this part of this Act, and terms used in this part of this Act shall have the same meaning as in the said enactments; and in construing the said enactments relating to an election, or to the poll, or taking the votes by poll, the mode of election and of taking the poll established by this Act shall, for the purposes of the said enactments, be deemed to be substituted for the mode of election or poll, or taking the votes by poll, referred to in the said enactments; and any person applying for a ballot paper under this Act shall be deemed "to tender his vote," or "to assume to vote," within the meaning of the said enactments; and any application for a ballot paper under this Act, or expressions relative thereto, shall be equivalent to "voting" in the said enactments, and any expressions relative thereto; and the term "polling booth" as used in the said enactments, shall be deemed to include a polling station; and the term "proclamation" as used in the said enactments, shall be deemed to include a public notice given in pursuance of this Act.

Application of Part of Act to Scotland.

16. *Alterations for Application of Part I. to Scotland.*—This part of this Act shall apply to Scotland subject to the following provisions:—

able wear and tear," will have to be met either at the expense of the borough fund or of the candidates, accordingly as it is done either at a municipal or a parliamentary election.

(1.) The expression "crime and offence" shall be equivalent to the expression "misdemeanour," and shall be substituted therefor:

(2.) All offences under this Act, for which any person may be punished on summary conviction, shall be prosecuted before the sheriff, under the provisions of "The Summary Procedure Act, 1864;" and all jurisdictions, powers, and authorities neeessary for that purpose are hereby conferred on sheriffs:

(3.) The expression "sheriff" shall include sheriff substitute:

(4.) The provisions of this Act relating to the division of counties and boroughs into polling districts shall not apply to Scotland:

(5.) The ballot boxes, ballot papers, stamping instruments, and other requisites for a parliamentary election, shall be provided and paid for in the same manner as polling rooms or booths under the fortieth section of the Act of the second and third years of the reign of King William the Fourth, chapter sixty-five, intituled "An Act to amend the Representation of the People in Scotland;" and the reasonable remuneration of presiding officers, assistants, and clerks, employed by the returning officer at such an election, and all other expenses properly incurred by the returning officer, and by sheriff clerks and town clerks, in carrying into effect the provisions of this Act, shall be paid by the candidates: Provided always, that if any person shall be proposed as a candidate without his consent, the person so proposing him shall be liable to defray his share of all those expenses in like manner as if he had been

a candidate himself: Provided also, that the fee to be paid to each presiding officer shall in no case exceed the sum of three guineas per day, and the fee to be paid to each assistant to the returning officer shall not exceed two guineas per day, and the fee to be paid to each clerk shall not exceed one guinea per day.

Application of Part of Act to Ireland.

17 *Alterations for Application of Part I. to Ireland.*—This part of this Act shall apply to Ireland, subject to the following modifications:—

(1.) The expression "Clerk of the Crown in Chancery" shall mean the Clerk of the Crown and Hanaper in Ireland:

(2.) The preceding provisions of this part of this Act with respect to the division of counties and boroughs into polling districts shall not extend to Ireland:

(3.) In the construction of the preceding provisions of this part of this Act as applying to Ireland, section thirteen of "The Representation of the People (Ireland) Act, 1868," shall be substituted for section fifty of "The Representation of the People Act, 1867," wherever in such provisions the said last-mentioned section occurs. The provision contained in the sixth section of this Act providing for the use of school-rooms free of charge, for the purpose of taking the poll at elections, shall not apply to any school adjoining or adjacent to any church or other place of worship, nor to any school connected with a nunnery or other religious establishment:

(4.) No returning officer shall be entitled to claim, or be paid, any sum or sums of money for the erection of polling booths or stations and compartments other than the sum or sums actually and necessarily incurred and paid by him in reference to the same, any statute or statutes to the contrary now in force notwithstanding; nor shall the expenses of providing sufficient polling stations or booths and compartments at every polling place exceed the sum or sums now given and allowed by statute in Ireland.

18. *Provisions as to Polling Districts and Polling Places in Ireland.*—With respect to polling districts and polling places in Ireland, the following regulations shall have effect; that is to say:—

(1.) The Lord Lieutenant, by and with the advice of the Privy Council in Ireland, shall appoint special sessions to be held by the chairman of quarter sessions and justices of the peace having jurisdiction in each county or riding of a county in Ireland, at such places and times before the first day of November next after the passing of this Act as shall seem fit for the purpose of dividing such county or riding into polling districts, and appointing polling places for such districts:

(2.) The clerk of the said Privy Council shall cause each such appointment to be notified to the clerk of the peace of the county to which the same relates, and shall cause notice of the same to be published twice in each of two consecutive weeks in one or more newspapers usually circulated in such county, and once in the Dublin Gazette:

(3.) The clerk of the peace of each county in Ireland shall, within five days after the receipt of such notification as aforesaid, send a written or printed notice of the same to the chairman and to every justice of the peace having jurisdiction within the county or riding to which the same relates:

(4.) The chairman of quarter sessions and the justices of the peace having jurisdiction in any county or riding assembled at such special sessions appointed in manner aforesaid, or at any adjournment of the same before the first day of December next after the passing of this Act, shall make an order dividing such county or riding of a county into polling districts, and appointing in each such polling district a place (in this section referred to as a "polling place") for taking the poll at contested elections of members to serve in Parliament for such county:

(5.) Every such division shall be made in such manner so that, as far as practicable, every building or place in such county in which petty sessions are at the time of the passing of this Act held shall be a polling place: Provided always, that where it appears to the chairman and justices assembled at special sessions, that for the purpose of affording full facilities for taking the poll at contested elections, there should be polling places in addition to such buildings or places where petty sessions are held as aforesaid, they shall appoint so many polling places in addition to such buildings or places as they may think necessary, and constitute a polling district for each such polling place:

(6.) Every such order shall specify the barony or baronies, half barony or half baronies, townland or townlands, parish or parishes, and places constituting each such polling district.

(7.) A copy of every such order shall forthwith be sent by the clerk of the peace for such county to the clerk of the said Privy Council, who thereupon shall submit the same for confirmation by the Lord Lieutenant and Privy Council in Ireland, in the manner by this Act provided, and such order shall not be of any validity until the same has been so confirmed:

(8.) Notice of the intended confirmation of any such order shall be given by the clerk of the said Privy Council at least one month before the day fixed for such confirmation by the publication of such notice and order in one or more newspapers circulating within such county or riding to which the order has reference:

(9.) It shall be lawful for the Lord Lieutenant and Privy Council, on the day fixed for the intended confirmation of any such order, to confirm the same as it stands, or with such variation, alteration, or modification as may seem fit: Provided always, that where any person is dissatisfied with any such order, it shall be lawful for such person, within fourteen days after the publication of the notice of the intended confirmation of such order, to appeal against the same, and such appeal shall be in writing, stating the grounds thereof, and shall be signed by such person, and shall within such time be lodged with the clerk of the Privy Council; and it shall be

lawful for the Lord Lieutenant and Privy Council, previous to the confirmation of any such order, to hear and determine such appeal against the same, and to make such order as to the costs of such appeal as may seem meet:

(10.) When any such order has been confirmed as aforesaid, the clerk of the said Privy Council shall transmit a copy of the same to the clerk of the peace of the county to which the same relates, and shall cause the same to be published once in the Dublin Gazette, and once in the newspaper in which the notice of intended confirmation was published:

(11.) The provisions of the Act of the session of the twenty-seventh and twenty-eighth years of the reign of Her present Majesty, chapter twenty-two, for ascertaining the voters in the new or altered polling districts referred to in the ninth section of the said Act, and for making separate lists of voters, and otherwise in relation thereto, shall extend and apply to every case in which any order in relation to any county has been confirmed under the authority of this section; in like manner as if such sections were herein re-enacted, and the polling districts to which the same refer or apply had been polling districts constituted under the authority of this section; and the register of voters in force in such county at the time of confirming such order as amended by the printed books given into the custody of the sheriff of such county in manner by the said Act provided, and the said printed books, shall be the register of persons en-

titled to vote at any election of a member or members to serve in Parliament which shall take place in and for such county until the first day of January next, after the giving of the said books as aforesaid: Provided always, that in the construction of the said provisions, the terms "the passing of this Act" and the "said Act" shall respectively be construed to mean the confirming of any order made under the authority of this section and this Act:

(12.) At any election of a member or members to serve in Parliament for any county to which any such order relates held after the confirming of any such order, and before the register of voters to be formed subsequently to the date of the confirming of such order under the provisions of this section shall be in force, the poll shall be taken as if no such order had been made:

(13.) All precepts, notices, and forms relating to the registration of voters shall be framed and expressed in such manner and form as may be necessary for the carrying the provisions of this Act into effect:

(14.) When the chairman of quarter sessions and justices of the peace having jurisdiction in any county or riding in Ireland, assembled at any general or quarter sessions in any division of such county or riding, are of opinion that for the purpose of affording further facilities for polling at contested elections there should be within such district polling places in addition to the places appointed in manner aforesaid, they may by resolution determine that at the next general

or quarter sessions in such division of such county the necessity for such additional polling places shall be considered by the chairman and justices assembled at the same:

(15.) The clerk of the peace of such county shall, within five days after the making of such resolution, send a written or printed copy of the same to the chairman, and to every justice of the peace having jurisdiction within the county to which the same relates, and shall cause a copy of such resolution to be published twice in each of two consecutive weeks in some newspaper circulated in such county:

(16.) The said chairman and justices assembled at such general or quarter sessions holden next after the making of such resolution shall consider whether additional polling places are necessary, and if they are of such opinion they may, by an order to be made in like manner and subject to the same provisions as to the making, confirming, and taking effect of the same as are in this section contained, in relation to orders to be made at special sessions under the authority of the same, appoint such other places to be polling places as they shall think fit, and shall constitute polling districts for such polling places:

(17.) No election shall be questioned by reason of any polling districts not having been constituted in conformity with the provisions of this Act, or by reason of any informality relative to any polling district:

(18.) When any day fixed for taking the poll at any election is the day fixed for the holding

of the petty sessions court at any polling place, the court shall stand *ipso facto* adjourned till the next day, which shall in that case be the legal day for holding said court, and, if that day be a Sunday or legal holiday, till the next day.

(19.) The term "the Lord Lieutenant" in this section shall mean the Lord Lieutenant of Ireland and the lords justices or other chief governors or governor of Ireland for the time being; and the term "Chairman of Quarter Sessions" in this section shall include any person duly appointed to do the duty of such chairman during his sickness or absence.

19. *Amendment of Law as to Voting in Wards in certain Boroughs.*—Where the name of any person is required to be inserted in any list of voters for any ward of any city, town, or borough under the provisions of section seven of the Act passed in the session of Parliament held in the thirteenth and fourteenth years of the reign of Her present Majesty, chapter sixty-eight, as qualified in respect of any property qualification, or as the occupier of any lands, tenements, or hereditaments situate in whole or in part beyond the limits of such ward, then, and in every such case, the names so required to be inserted shall be placed in alphabetical order in a separate part of such list to be styled "the list of rural or out-voters of such ward," and the property, lands, tenements, and hereditaments in respect of which such person is qualified as aforesaid shall, for the purposes of the said Act and the Acts amending the same, in relation to the providing of booths and compartments within each ward of any city, town, or borough, and the voting therein of per-

sons entitled to vote in respect of any such qualifications aforesaid, be deemed to constitute a separate ward: Provided always, that the name of any such person shall not be placed in such separate list if such person shall, in writing under his hand, object thereto, and if such objection is delivered to such clerk of the peace on or before the twenty-fifth day of August next preceding the making of such list under the provisions aforesaid, and in such case and in relation to such person, the provisions of this section shall not apply.

PART II.

MUNICIPAL ELECTIONS.*

20. *Application to Municipal Election of Enactments relating to the Poll at Parliamentary Elections.*—The poll at every contested municipal election shall, so far as circumstances admit, be conducted in the manner in which the poll is by this Act directed to be conducted at a contested parliamentary election, and subject to the modifications expressed in the schedules annexed hereto,† such provisions of this Act and of the said schedules as relate to or are concerned with a poll at a parliamentary election shall apply to a poll at a contested municipal election: Provided as follows:—

(1.) The term "returning officer" shall mean the mayor or other officer who, under the law relating to municipal elections, presides at such elections:

(2.) The term "petition questioning the election

* It will be observed that this only applies to *the taking of the poll* at municipal elections. The latter part of Clause 20 expressly so limits it. The nomination at municipal elections, and other proceedings except the polling, will remain, therefore, exactly the same as heretofore.

† *See* Schedule II.

or return" shall mean any proceeding in which a municipal election can be questioned:

(3.) The mayor shall provide everything which in the case of a parliamentary election is required to be provided by the returning officer for the purpose of a poll:

(4.) All expenses shall be defrayed in manner provided by law with respect to the expenses of a municipal election:*

(5.) No return shall be made to the Clerk of the Crown in Chancery:

(6.) Nothing in this Act shall be deemed to authorize the appointment of any agents of a candidate in a municipal election, but if in the case of a municipal election any agent of a candidate is appointed, and a notice in writing of such appointment is given to the returning officer, the provisions of this Act with respect to agents of candidates shall, so far as respects such agent, apply in the case of that election:†

(7.) The provisions of this Act with respect to—

(*a.*) The voting of a returning officer;‡ and

* That is, out of the borough fund.

† Although this paragraph does not authorize the appointment of agents by the candidates at municipal elections, its practical effect is very much the same as if it did, because it confers upon them, when they are appointed, the privileges, powers, and rights of agents for parliamentary elections. As to those privileges, rights, and powers, see Rules 26 and 29; 31 to 35; 37; and 51 to 54 of Schedule I.

‡ It is provided by Clause 2, that the returning officer at a parliamentary election shall not exercise the franchise except there is an equality of votes, when he may give a casting vote. As this prohibition does not apply in the case of a municipal election, an alderman or other person who presides at such an election, may not only vote, in the first instance, as an ordinary burgess (if he happens to be such)

(*b.*) The use of a room for taking a poll; * and

(*c.*) The right to vote of persons whose names are on the register of voters;

shall not apply in the case of a municipal election.

A municipal election shall, except in so far as relates to the taking of the poll in the event of its being contested, be conducted in the manner in which it would have been conducted if this Act had not passed.

21. *Abolition of Ward Assessors.*—Assessors shall not be elected in any ward of any municipal borough, and a municipal election need not be held before the assessors or their deputies, but may be held before the mayor, alderman, or other returning officer only.

Application of Part of Act to Scotland.

22. *Alterations for Application of Part II. to Scotland.*—This part of this Act shall apply to Scotland, subject to the following provisions:—

(1.) The term "mayor" shall mean the provost or other chief magistrate of a municipal borough, as defined by this Act:

(2.) All municipal elections shall be conducted in the same manner, in all respects, in which elections of councillors in the royal burghs contained in Schedule C. to the Act of the session of the third and fourth years of the

of the ward for which the election takes place, but may afterwards, if it becomes necessary, give a casting vote as presiding officer.

* That is to say, the use of the school-room or other room which may, under Section 6, be claimed for parliamentary elections, cannot be required for municipal purposes. Moreover, it seems clear that so much of Clause 6 as declares that "the use of any room, or an unoccupied house, for the purpose of taking the poll for a parliamentary election, shall not render any person liable to be rated, or to pay any rate for such house," does not apply to municipal elections.

reign of King William the Fourth, chapter seventy-six, intituled "An Act to alter and amend the laws for the election of the Magistrates and Councillors of the Royal Burghs in Scotland," are directed to be conducted by the Acts in force at the time of the passing of this Act as amended by this Act; and all such Acts shall apply to such elections accordingly.

Application of Part of Act to Ireland.

23. *Alterations for Application of Part II. to Ireland.*—This part of this Act shall apply to Ireland, with the following modifications:—

(1.) The term "mayor" shall include the chairman of commissioners, chairman of municipal commissioners, chairman of town commissioners, and chairman of township commissioners:

(2.) The provisions of "The Municipal Corporation Act, 1859," following; that is to say, section five and section six, and section seven, except so much thereof as relates to the form of nomination papers, and section eight, except so much thereof as relates to assessors, shall extend and apply to every municipal borough in Ireland, and shall be substituted for any provisions in force in relation to the nomination at municipal elections: Provided always, that the term "councillor" in these sections shall, for the purposes of this section, include alderman, commissioner, municipal commissioner, town commissioner, township commissioner, or assessor of any municipal borough.

PART III.

PERSONATION.

24. *Definition and Punishment of Personation.*—The following enactments shall be made with respect to personation at parliamentary and municipal elections:

A person shall, for all purposes of the laws relating to parliamentary and municipal elections, be deemed to be guilty of the offence of personation who at an election for a county or borough, or at a municipal election, applies for a ballot paper in the name of some other person, whether that name be that of a person living or dead, or of a fictitious person, or who having voted once at any such election, applies at the same election for a ballot paper in his own name.*

* It will make no difference whether the "person" in whose name a ballot paper is wrongfully applied for is an elector or not. It will be noticed that under this section the offence of personation is complete the moment the elector applies for a voting paper in the name of another person, or for a second paper in his own name after he has once voted. It does not, however, follow that a presiding officer will be safe in giving any person into custody until he has actually *voted*. It was probably meant that he should have the power as soon as the offence was complete; but it seems doubtful whether the legislature (apparently from want of attention to the language of the 6 & 7 Vict. c. 18, secs. 86 to 88) has not failed to carry out its intention. The first of these sections, which will be found in the Appendix, p. 124, and upon which depends the power of the returning officer to give into custody a person guilty, or accused, of personation, only empowers the returning officer to give the offending party into custody "immediately after such person shall have voted." Then the 87th section directs the constable to take him before the justices of the county, &c., "within which the said person shall have so *voted* as aforesaid;" and sec. 88 gives the justices power to convict in case it is shown "that in fact he is not the person in whose name he voted." Upon the whole, therefore, a returning officer cannot be advised to order an alleged

The offence of personation, or of aiding, abetting, counselling, or procuring the commission of the offence of personation by any person, shall be a felony, and any person convicted thereof shall be punished by imprisonment, for a term not exceeding two years, together with hard labour. It shall be the duty of the returning officer to institute a prosecution against any person whom he may believe to have been guilty of personation, or of aiding, abetting, counselling, or procuring the commission of the offence of personation by any person, at the election for which he is returning officer, and the costs and expenses of the prosecutor and the witnesses in such case, together with compensation for their trouble and loss of time, shall be allowed by the court in the same manner in which courts are empowered to allow the same in cases of felony.

The provisions of the Registration Acts, specified in the Third Schedule to this Act, shall in England and Ireland respectively apply to personation under this Act, in the same manner as they apply to a person who knowingly personates and falsely assumes to vote in the name of another person, as mentioned in the said Acts.*

personator into custody *until he has actually voted.* Of course it still remains his duty, under the second paragraph of this clause, *to institute a prosecution in the regular way* against a person who may have attempted to vote, or may even have gone no further than to apply for a ballot paper in the name of some other person.

* *See*, for the provisions of these Acts, Appendix, p. 124. It may, however, be convenient briefly to summarize them here. They authorize candidates to appoint agents to detect personation at the time of polling. They authorize and require returning or deputy returning officers to give into custody any person whom an agent for a candidate accuses of personation; providing, however, that the vote of such person is not to be rejected if he only answers the questions and takes the oath which the returning officer is entitled to ask of or impose upon him (*see* p. 125). They regulate the time when, and the manner in which, the accused is to be taken before the

The offence of personation shall be deemed to be a corrupt practice within the meaning of the Parliamentary Elections Act, 1868.*

If, on the trial of any election petition questioning the election or return for any county or borough, any candidate is found by the report of the judge, by himself or his agents to have been guilty of personation, or by himself or his agents to have aided, abetted, counselled, or procured the commission at such election of the offence of personation by any person, such candidate shall be incapable of being elected or

justices, together with all the proceedings consequent thereupon; and, lastly, they enact, that if the justices are satisfied that the charge is unfounded, they are to order compensation to be made, by the agent or candidate, to the party accused; and if the party falsely accused accepts such compensation, *but not otherwise*, he is to be barred from bringing any action against his accuser.

* Under this Act (31 & 32 Vict. c. 125), where a charge is made, in an election petition, of any corrupt practices having been committed at the election to which the petition refers, the election judge is to report to the Speaker as follows:—(*a*) whether any corrupt practice has or has not been proved to have been committed by or with the knowledge and consent of any candidate at such election, and the nature of such corrupt practice; (*b*) the names of all persons (if any) who have been found at the trial to have been guilty of any corrupt practices; (*c*) whether corrupt practices have, or whether there is reason to believe that corrupt practices have extensively prevailed at the election to which the petition relates (sec. 11). Then if the judge states in his report that corrupt practices have, or that there is reason to believe that corrupt practices have extensively prevailed, in any city or borough, at the election to which the petition relates, such statement shall, for all the purposes of the Act of the session of the 15th and 16th years of the reign of Her present Majesty, c. 57, intituled "An Act to provide for more Effectual Inquiry into the Existence of Corrupt Practices at Elections of Members to serve in Parliament," have the same effect, and may be dealt with in the same manner as if it were a report of a Committee of the House of Commons appointed to try an election petition; and the expenses of any commission of inquiry which may be issued in accordance with the provisions of the said Act, shall be defrayed as if they were expenses incurred in the registration of voters for such county or borough (sec. 15).

sitting in Parliament for such county or borough during the Parliament then in existence.

25. *Vote to be struck off for Bribery, Treating, or undue Influence.*—Where a candidate, on the trial of an election petition claiming the seat for any person, is proved to have been guilty, by himself or by any person on his behalf, of bribery, treating, or undue influence in respect of any person who voted at such election, or where any person retained, or employed for reward, by or on behalf of such candidate, for all or any of the purposes of such election, as agent, clerk, messenger, or in any other employment, is proved on such trial to have voted at such election, there shall, on a scrutiny, be struck off from the number of votes appearing to have been given to such candidate one vote for every person who voted at such election and is proved to have been so bribed, treated, or unduly influenced, or so retained or employed for reward as aforesaid.

26. *Alterations in Act as applying to Scotland.*—This part of this Act shall apply to Scotland, subject to the following provision:—

The offence of personation shall be deemed to be a crime and offence, and the rules of the law of Scotland with respect to apprehension, detention, precognition, commitment, and bail, shall apply thereto, and any person accused thereof may be brought to trial in the court of justiciary, whether in Edinburgh or on circuit, at the instance of the Lord Advocate, or before the sheriff court, at the instance of the procurator fiscal.

27. *Construction of part of Act.*—This part of this Act, so far as regards parliamentary elections, shall be construed as one with "The Parliamentary Elections Act, 1868," and shall apply to an election for a university, or combination of universities.

PART IV.

MISCELLANEOUS.

28. *Effect of Schedules.*—The schedules to this Act, and the notes thereto, and directions therein, shall be construed and have effect as part of this Act.

29. *Definitions.*—In this Act—

The expression "municipal borough" means any place for the time being subject to the Municipal Corporation Acts, or any of them:

The expression "Municipal Corporation Acts" means—

(*a.*) As regards England, the Act of the session of the fifth and sixth years of the reign of King William the Fourth, chapter seventy-six, intituled "An Act to provide for the Regulation of Municipal Corporations in England and Wales," and the Acts amending the same:

(*b.*) As regards Scotland, the Act of the session of the third and fourth years of the reign of King William the Fourth, chapter seventy-six, intituled "An Act to alter and amend the laws for the election of Magistrates and Councillors of the Royal Burghs in Scotland;" and the Act of the same session, chapter seventy-seven, intituled "An Act to provide for the appointment and election of Magistrates and Councillors for the several Burghs and Towns of Scotland which now return or contribute to return Members to Parlia-

ment, and are not Royal Burghs," and the Act of the session of the thirteenth and fourteenth years of the reign of Her present Majesty, chapter thirty-three, intituled "An Act to make more effectual provision for regulating the Police of Towns and populous Places in Scotland, and for paving, draining, cleansing, lighting, and improving the same;" and "The General Police and Improvement (Scotland) Act, 1862," and any Acts amending the same:

(*c.*) As regards Ireland, the Act of the session of the third and fourth years of the reign of Her present Majesty, chapter one hundred and eight, intituled "An Act for the Regulation of Municipal Corporations in Ireland," the Act of the ninth year of George the Fourth, chapter eighty-two, The Towns Improvement (Ireland) Act, 1854, and every local and personal Act providing for the election of commissioners in any towns or places for purposes similar to the purposes of the said Acts.

The expression "municipal election" means—

(*a.*) As regards England, an election of any person to serve the office of councillor, auditor, or assessor of any municipal borough, or of councillor for a ward of a municipal borough; and

(*b.*) As regards Scotland, an election of any person to serve the office of councillor or commissioner of any municipal borough, or of a ward or district of any municipal borough:

(*c.*) As regards Ireland, an election of any

person to serve the office of alderman, councillor, commissioner, municipal commissioner, town commissioner, township commissioner, or assessor of any municipal borough.

30. *Application of Act.*—This Act shall apply to any parliamentary or municipal election which may be held after the passing thereof.

31. *Saving.*—Nothing in this Act, except Part III. thereof, shall apply to any election for a university or combination of universities.

Repeal.

32. *Repeal of Acts in Schedules.*—The Acts specified in the fourth, fifth, and sixth schedules to this Act, to the extent specified in the third column of those schedules, and all other enactments inconsistent with this Act, are hereby repealed.

Provided that this repeal shall not affect—

(*a.*) Anything duly done or suffered under any enactment hereby repealed; or

(*b.*) Any right or liability acquired, accrued, or incurred under any enactment hereby repealed; or

(*c.*) Any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment hereby repealed; or

(*d.*) Any investigation, legal proceeding, or remedy in respect of any such right, liability, penalty, forfeiture, or punishment as aforesaid; and any such investigation, legal proceeding, and remedy, may be carried on as if this Act had not passed.

33. *Short Title.*—This Act may be cited as "The Ballot Act, 1872," and shall continue in force till the 31st day of December, 1880, and no longer, unless Parliament shall otherwise determine; and on the said day the Acts in the fourth, fifth, and sixth schedules shall be thereupon revived; provided that such revival shall not affect any act done, any rights acquired, any liability or penalty incurred, or any proceeding pending under this Act, but such proceeding shall be carried on as if this Act had continued in force.

SCHEDULES.

FIRST SCHEDULE.

PART I.

RULES FOR PARLIAMENTARY ELECTIONS.

Election.

1. The returning officer shall, in the case of a county election, within two days after the day on which he receives the writ, and in the case of a borough election, on the day on which he receives the writ, or the following day, give public notice,* between the hours of nine in the morning and four in the afternoon of the day on which and the place at which he will proceed to an election, and of the time appointed for the election, and of the day on which the poll will be taken in case the election is contested, and of the time and place at which forms of nomination papers may be obtained, and in the case of a county election, shall send one of such notices by post, under cover, to the postmaster of the principal post-office of each polling place in the county, endorsed with the words "Notice of election," and the same shall be forwarded free of charge; and the postmaster receiving the same shall forthwith publish the same

* *See*, for the provisions of the Act with regard to nominations, Clause I. As to what is public notice, see Rule 45, Schedule I.

in the manner in which post-office notices are usually published.

2. The day of election shall be fixed by the returning officer as follows: that is to say, in the case of an election for a county or a district borough not later than the ninth day after the day on which he receives the writ with an interval of not less than three clear days between the day on which he gives the notice and the day of election; * and in the case of an election for any borough other than a district borough not later than the fourth day after the day on which he receives the writ, with an interval of not less than two clear days between the day on which he gives the notice and the day of election.†

3. The place of election shall be a convenient room situate in the town in which such election would have been held if this Act had not passed, or where the election would not have been held in a town, then situate in such town in the county as the returning officer may from time to time determine as being in his opinion most convenient for the electors.‡

4. The time appointed for the election shall be such two hours between the hours of ten in the forenoon and three in the afternoon as may be appointed

* As to the mode in which time is to be reckoned for the purposes of this Act, see Rule 55, Schedule I.

† The day of election means, in this and the following rules under the same heading, the day of "nomination."

‡ Before the passing of this Act the nominations for some counties were held on commons, or other open spaces, where hustings were erected. This will no longer be the case; in future, the nomination must be held in some *town* within the county, it being left to the returning officer, *in cases where the election has not hitherto been held in a town*, to select that which from time to time he deems most convenient. It will be observed that he has no power to change the place of nomination when, before the passing of the Act, this has taken place in a town.

by the returning officer, and the returning officer sha attend during those two hours, and for one hour after.

5. Each candidate shall be nominated by a separate nomination paper,* but the same electors or any of them may subscribe as many nomination papers as there are vacancies to be filled, but no more.

6. Each candidate shall be described in the nomination paper in such manner as in the opinion of the returning officer is calculated to sufficiently identify such candidate; the description shall include his names, his abode, and his rank, profession, or calling, and his surname shall come first in the list of his names. No objection to a nomination paper on the ground of the description of the candidate therein being insufficient, or not being in compliance with this rule, shall be allowed or deemed valid, unless such objection is made by the returning officer, or by some other person, at or immediately after the time of the delivery of the nomination paper.

7 The returning officer shall supply a form of nomination paper to any registered elector requiring the same during such two hours as the returning officer may fix, between the hours of ten in the morning and two in the afternoon on each day intervening between the day on which notice of the election was given and the day of election, and during the time appointed for the election; but nothing in this Act shall render

* *See* Clause I. The statutory form of nomination paper will be found at p. 105. It will, of course, be prudent to follow *exactly* the form of nomination paper given in the Act, because, although another form substantially containing the same particulars and giving the same information would be perfectly valid, questions might and very probably would arise as to whether any departure from the nomination paper contained in the Act is matter of form or substance. It is never desirable to afford any opportunity for raising such a question. As to the mode of determining the validity of a nomination paper, *see* Rule 13, Schedule I.

obligatory the use of a nomination paper supplied by the returning officer, so, however, that the paper be in the form prescribed by this Act.

8. The nomination papers shall be delivered to the returning officer at the place of election during the time appointed for the election; and the candidate nominated by each nomination paper, and his proposer and seconder, and one other person selected by the candidate, and no person other than aforesaid shall, except for the purpose of assisting the returning officer, be entitled to attend the proceedings during the time appointed for the election.

9. If the election is contested, the returning officer shall, as soon as practicable after adjourning the election,* give public notice † of the day on which the poll will be taken, and of the candidates described as in their respective nomination papers, and of the names of the persons who subscribe the nomination paper of each candidate, and of the order in which the names of the candidates will be printed in the ballot paper, and, in the case of an election for a county, deliver to the postmaster of the principal post-office of the town in which is situate the place of election a paper, signed by himself, containing the names of the candidates nominated, and stating the day on which the poll is to be taken, and the postmaster shall forward the information contained in such paper by telegraph, free of charge, to the several postal telegraph offices situate in the county for which the election is to be held, and such information shall be published forthwith at each

* *i.e.* the nomination proceedings.

† As to the mode in which public notice may be given, *see* Schedule I., Rule 45. The "public notice" required to be given by this section is altogether independent of and additional to that required to be given under Rule 11.

such office in the manner in which post-office notices are usually published.

10. If any candid te nominated during the time appointed for the election is withdrawn in pursuance of this Act, the returning officer shall give public notice of the name of such candidate, and the names of the persons who subscribed the nomination paper of such candidate, as well as of the candidates who stood nominated or were elected.

11. The returning officer shall, on the nomination paper being delivered to him, forthwith* publish notice of the name of the person nominated as a candidate, and of the names of his proposer and seconder, by placarding or causing to be placarded the names of the candidate and his proposer and seconder in a conspicuous position outside the building in which the room is situate appointed for the election.

12. A person shall not be entitled to have his name inserted in any ballot paper as a candidate unless he has been nominated in manner provided by this Act,† and every person whose nomination paper has been delivered to the returning officer during the time appointed for the election shall be deemed to have been nominated in manner provided by this Act, unless objection be made to his nomination paper by the returning officer or some other person before the expiration of the time appointed for the election or within one hour afterwards.

13. The returning officer shall decide on the validity of every objection made to a nomination paper, and his decision, if disallowing the objection, shall be

* That is to say, he must do it *immediately*, without waiting for the close of the nomination proceedings, or the expiration of the period within which they are appointed to take place.

† That is, in accordance with the previous eleven rules and the first section of the Act.

a separate polling station, or several polling stations may be constructed in the same room or booth.

18. No person shall be admitted to vote at any polling station except the one allotted to him.

19. The returning officer shall give public notice * of the situation of polling stations, and the description of voters entitled to vote at each station, and of the mode in which electors are to vote.

20. The returning officer shall provide each polling station with materials for voters to mark the ballot papers, with instruments for stamping thereon the official mark, and with copies of the register of voters, or such part thereof as contains the names of the voters allotted to vote at such station. He shall keep the official mark secret, and an interval of not less than seven years shall intervene between the use of the same official mark at elections for the same county or borough.

21. The returning officer shall appoint a presiding officer to preside at each station, and the officer so appointed shall keep order at his station, shall regulate the number of electors to be admitted at a time, and shall exclude all other persons except the clerks, the agents of the candidates, and the constables on duty.

22. Every ballot paper shall contain a list of the candidates described as in their respective nomination papers, and arranged alphabetically in the order of their surnames, and (if there are two or more candidates with the same surname) of their other names: it shall be in the form set forth in the Second Schedule to this Act,† or as near thereto as circumstances admit, and shall be capable of being folded up.

23. Every ballot box shall be so constructed that the ballot papers can be introduced therein, but cannot be

* As to the mode of giving public notices, see Rule 45, Schedule I.

† *See* p. 108.

withdrawn therefrom, without the box being unlocked. The presiding officer at any polling station, just before the commencement of the poll, shall show the ballot box empty to such persons, if any, as may be present in such station, so that they may see that it is empty, and shall then lock it up, and place his seal upon it in such manner as to prevent its being opened without breaking such seal, and shall place it in his view for the receipt of ballot papers, and keep it so locked and sealed.

24. Immediately before a ballot paper is delivered to an elector, it shall be marked on both sides with the official mark, either stamped or perforated, and the number, name, and description of the elector as stated in the copy of the register shall be called out, and the number of such elector shall be marked on the counterfoil, and a mark shall be placed in the register against the number of the elector, to denote that he has received a ballot paper, but without showing the particular ballot paper which he has received.

25. The elector, on receiving the ballot paper, shall forthwith proceed into one of the compartments in the polling station, and there mark his paper, and fold it up so as to conceal his vote, and shall then put his ballot paper, so folded up, into the ballot box; he shall vote without undue delay, and shall quit the polling station as soon as he has put his ballot paper into the ballot box.*

26. The presiding officer, on the application of any voter who is incapacitated † by blindness or other

* *See*, as to the construction of this rule, note to Clause 2, p. 39, and Introduction, pp. 12—17.

† The Act does not point out any mode in which the fact of a person being incapacitated is to be determined. Under these circumstances the presiding officer seems to be at liberty to accept any evidence which is satisfactory to himself. It is, however, clearly his duty to satisfy himself that a person really is and not merely professed

final; but if allowing the same, shall be subject to reversal on petition questioning the election or return.*

The Poll.

14. The poll shall take place on such day as the returning officer may appoint, not being in the case of an election for a county or a district borough,† less than two nor more than six clear days, and not being in the case of an election for a borough other than a district borough more than three clear days after the day fixed for the election.‡

15. At every polling place the returning officer shall provide a sufficient number of polling stations for the accommodation of the electors entitled to vote at such polling place, and shall distribute the polling stations amongst those electors in such manner as he thinks most convenient, provided that in a district borough§ there shall be at least one polling station at each contributory place of such borough.

16. Each polling station shall be furnished with such number of compartments, in which the voters can mark their votes screened from observation, as the returning officer thinks necessary, so that at least one compartment be provided for every one hundred and fifty electors entitled to vote at such polling station.

17. A separate room or separate booth may contain

* The effect of this and the previous rule is, that if the returning officer allows a candidate to be nominated, his nomination is valid to all intents and purposes, and can never be questioned in any manner. If, on the other hand, the returning officer rejects the nomination of a candidate, his decision may be questioned by a petition, which will be heard in the usual way by one of the election judges.

† As to what is a district borough, *see* Rule 56, Schedule I.

‡ As to the mode of reckoning these times, *see* Rule 55, Schedule I.

§ As to what is a "district borough," *see* Rule 56, Schedule I.

physical cause from voting in manner prescribed by this Act, or (if the poll be taken on Saturday) of any voter who declares that he is of the Jewish persuasion, and objects on religious grounds to vote in manner prescribed by this Act, or of any voter who makes such a declaration as hereinafter mentioned that he is unable to read, shall, in the presence of the agents of the candidates, cause the vote of such voter to be marked on a ballot paper in manner directed by such voter, and the ballot paper to be placed in the ballot box, and the name and number on the register of voters of every voter whose vote is marked in pursuance of this rule, and the reason why it is so marked, shall be entered on a list, in this Act called "the list of votes marked by the presiding officer."

The said declaration, in this Act referred to as "the declaration of inability to read," shall be made by the voter at the time of polling, before the presiding officer, who shall attest it in the form hereinafter mentioned, and no fee, stamp, or other payment shall be charged in respect of such declaration, and the said declaration shall be given to the presiding officer at the time of voting.

27 If a person, representing himself to be a particular elector named on the register, applies for a ballot paper after another person has voted as such elector, the applicant shall, upon duly answering the questions and taking the oath permitted by law to be asked of and to be administered to voters at the time of polling, be entitled to mark a ballot paper in the same manner as any other voter, but the ballot paper (in this Act called a tendered ballot paper) shall be of a colour differing from the other ballot papers, and,

to be incapacitated. On the other hand, the mere *declaration* of a voter that he is a Jew, &c., will entitle him to call upon the presiding officer to cause his paper to be marked.

instead of being put into the ballot box, shall be given to the presiding officer and endorsed by him with the name of the voter and his number in the register of voters, and set aside in a separate packet, and shall not be counted by the returning officer. And the name of the voter and his number on the register shall be entered on a list, in this Act called the tendered votes list.

28. A voter who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper, may, on delivering to the presiding officer the ballot paper so inadvertently dealt with, and proving the fact of the inadvertence to the satisfaction of the presiding officer, obtain another ballot paper in the place of the ballot paper so delivered up (in this Act called a spoilt ballot paper), and the spoilt ballot paper shall be immediately cancelled.

29. The presiding officer of each station, as soon as practicable after the close of the poll, shall in the presence of the agents of the candidates, make up into separate packets, sealed with his own seal and the seals of such agents of the candidates as desire to affix their seals,—

(1.) Each ballot box in use at his station, unopened but with the key attached; and
(2.) The unused and spoilt ballot papers, placed together; and
(3.) The tendered ballot papers; and
(4.) The marked copies of the register of voters, and the counterfoils of the ballot papers; and
(5.) The tendered votes list, and the list of votes marked by the presiding officer, and a statement of the number of the voters whose

votes are so marked by the presiding officer under the heads "physical incapacity," "Jews," and "unable to read," and the declarations of inability to read;

and shall deliver such packets to the returning officer.

30. The packets shall be accompanied by a statement * made by such presiding officer, showing the number of ballot papers entrusted to him, and accounting for them under the heads of ballot papers in the ballot box, unused, spoilt, and tendered ballot papers, which statement is in this Act referred to as the ballot paper account.

Counting Votes.

31. The candidates may respectively appoint agents to attend the counting of the votes.†

32. The returning officer shall make arrangements for counting the votes in the presence of the agents of the candidates as soon as practicable after the close of the poll, and shall give to the agents of the candidates appointed to attend at the counting of the votes notice in writing of the time and place at which he will begin to count the same.‡

* This statement must be in writing.

† *See*, as to the appointment of agents, the mode in which, and the time when, their appointment must be notified to the returning officer, the declaration of secrecy to be made by them, &c., Rules 51 to 55, Schedule I. As to the meaning of the expression "agents of the candidates," see Rule 57.

‡ The non-attendance of the agents of the candidates, supposing them to have been duly notified of the time of the counting, will not affect the validity of that operation. It would, however, seem that if the returning officer was to proceed to count without having given notice to the agents to attend, the counting would not be valid. If a petition was presented on that ground, the election judge would apparently have no other course, supposing the fact to be proved, than to avoid the return. The Act gives him no power to direct the votes to be re-counted in the presence of the agents of the candidates; nor would such a course be satisfactory.

33. The returning officer, his assistants and clerks, and the agents of the candidates, and no other person, except with the sanction of the returning officer, may be present at the counting of the votes.

34. Before the returning officer proceeds to count the votes, he shall, in the presence of the agents of the candidates, open each ballot box, and, taking out the papers therein, shall count and record the number thereof, and then mix together the whole of the ballot papers contained in the ballot boxes. The returning officer, while counting and recording the number of ballot papers and counting the votes, shall keep the ballot papers with their faces upwards, and take all proper precautions for preventing any person from seeing the numbers printed on the backs of such papers.

35. The returning officer shall, so far as practicable, proceed continuously with counting the votes, allowing only time for refreshment, and excluding (except so far as he and the agents otherwise agree) the hours between seven o'clock at night and nine o'clock on the succeeding morning. During the excluded time the returning officer shall place the ballot papers and other documents relating to the election under his own seal and the seals of such of the agents of the candidates as desire to affix their seals, and shall otherwise take proper precautions for the security of such papers and documents.

36. The returning officer shall endorse "rejected" on any ballot paper which he may reject as invalid, and shall add to the endorsement "rejection objected to," if an objection be in fact made by any agent to his decision. The returning officer shall report to the Clerk of the Crown in Chancery the number of ballot papers rejected and not counted by him under the several heads of—

(1.) Want of official mark;
(2.) Voting for more candidates than entitled to;
(3.) Writing or mark by which voter could be identified;
(4.) Unmarked or void for uncertainty;

and shall on request allow any agents of the candidates, before such report is sent, to copy it.

37. Upon the completion of the counting, the returning officer shall seal up in separate packets the counted and rejected ballot papers. He shall not open the sealed packet of tendered ballot papers or marked copy of the register of voters and counterfoils, but shall proceed, in the presence of the agents of the candidates, to verify the ballot paper account given by each presiding officer by comparing it with the number of ballot papers recorded by him as aforesaid, and the unused and spoilt ballot papers in his possession and the tendered votes list, and shall reseal each sealed packet after examination. The returning officer shall report to the Clerk of the Crown in Chancery the result of such verification, and shall, on request, allow any agents of the candidates, before such report is sent, to copy it.

38. Lastly, the returning officer shall forward to the Clerk of the Crown in Chancery (in manner in which the poll books are by any existing enactment required to be forwarded to such clerk, or as near thereto as circumstances admit) all the packets of ballot papers in his possession, together with the said reports, the ballot paper accounts, tendered votes lists, lists of votes marked by the presiding officer, statements relating thereto, declarations of inability to read, and packets of counterfoils and marked copies of registers, sent by each presiding officer, endorsing on each packet a description of its contents and the date of the election

to which they relate, and the name of the county or borough for which such election was held; and the term poll book in any such enactment shall be construed to include any document forwarded in pursuance of this rule.

39. The Clerk of the Crown shall retain for a year all documents relating to an election forwarded to him in pursuance of this Act by a returning officer, and then, unless otherwise directed by an order of the House of Commons, or of one of Her Majesty's Superior Courts, shall cause them to be destroyed.

40. No person shall be allowed to inspect any rejected ballot papers in the custody of the Clerk of the Crown in Chancery, except under the order of the House of Commons, or under the order of one of Her Majesty's Superior Courts,* to be granted by such court on being satisfied by evidence on oath that the inspection or production of such ballot papers is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers, or for the purpose of a petition questioning an election or return; and any such order for the inspection or production of ballot papers may be made subject to such conditions as to persons, time, place, and mode of inspection or production as the House or court making the same may think expedient, and shall be obeyed by the Clerk of the Crown in Chancery. Any power given to a court by this rule may be exercised by any judge of such court at chambers.

41. No person shall, except by order of the House of Commons or any tribunal having cognizance of

* This power, as will be seen by the latter part of the claim, may be exercised by a judge at chambers. There will, of course, be an appeal in the usual way to the court itself. The application to the judge will be *ex parte*, and the evidence on oath will be given by affidavit, unless the judge otherwise requires.

petitions complaining of undue returns or undue elections, open the sealed packet of counterfoils after the same has been once sealed up, or be allowed to inspect any counted ballot papers in the custody of the Clerk of the Crown in Chancery; such order may be made subject to such conditions as to persons, time, place, and mode of opening or inspection as the House or tribunal making the order may think expedient; provided that on making and carrying into effect any such order, care shall be taken that the mode in which any particular elector has voted shall not be discovered until he has been proved to have voted, and his vote has been declared by a competent court to be invalid.

42. All documents forwarded by a returning officer in pursuance of this Act to the Clerk of the Crown in Chancery, other than ballot papers and counterfoils, shall be open to public inspection at such time and under such regulations as may be prescribed by the Clerk of the Crown in Chancery, with the consent of the Speaker of the House of Commons, and the Clerk of the Crown shall supply copies of or extracts from the said documents to any persons demanding the same, on payment of such fees and subject to such regulations as may be sanctioned by the Treasury.

43. Where an order is made for the production by the Clerk of the Crown in Chancery of any document in his possession relating to any specified election, the production by such clerk or his agent of the document ordered, in such manner as may be directed by such order, or by a rule of the court having power to make such order, shall be conclusive evidence that such document relates to the specified election; and any endorsement appearing on any packet of ballot papers produced by such Clerk of the Crown or his agent shall be evidence of such papers being what they are stated to be by the endorsement. The production, from

proper custody, of a ballot paper purporting to have been used at any election, and of a counterfoil marked with the same printed number, and having a number marked thereon in writing, shall be *primâ facie* evidence that the person who voted by such ballot paper was the person who, at the time of such election, had affixed to his name in the register of voters at such election the same number as the number written on such counterfoil.

General Provisions.

44. The return of a member or members elected to serve in Parliament for any county or borough shall be made by a certificate * of the names of such member or members under the hand of the returning officer endorsed on the writ of election for such county or borough, and such certificate shall have effect and be dealt with in like manner as the return under the existing law, and the returning officer may, if he think fit, deliver the writ with such certificate endorsed to the postmaster of the principal post-office of the place of election, or his deputy, and in that case he shall take a receipt from the postmaster or his deputy for the same; and such postmaster or his deputy shall then forward the same by the first post, free of charge, under cover, to the Clerk of the Crown, with the words "Election Writ and Return" endorsed thereon.

45. The returning officer shall, as soon as possible, give public notice † of the names of the candidates elected, and, in the case of a contested election, of the

* This is an alteration of the law. Heretofore the return has been made by an indenture tacked to the writ.

† As to which is "public notice" see next rule. Such notice will stand in the place of the present public declaration of the poll, which, like public nominations, will no longer take place.

total number of votes given for each candidate, whether elected or not.

46. Where the returning officer is required or authorized by this Act to give any public notice, he shall carry such requirement into effect by advertisements, placards, handbills, or such other means as he thinks best calculated to afford information to the electors.

47 The returning officer may, if he think fit, preside at any polling station, and the provisions of this Act relating to a presiding officer shall apply to such returning officer with the necessary modifications as to things to be done by the returning officer to the presiding officer, or the presiding officer to the returning officer.

48. In the case of a contested election for any county or borough, the returning officer may, in addition to any clerks, appoint competent persons to assist him in counting the votes.

49. No person shall be appointed by a returning officer for the purposes of an election who has been employed by any other person in or about the election.

50. The presiding officer may do, by the clerks appointed to assist him, any act which he is required or authorized to do by this Act at a polling station except ordering the arrest, exclusion, or ejection from the polling station of any person.

51. A candidate may himself undertake the duties which any agent of his, if appointed, might have undertaken, or may assist his agent in the performance of such duties, and may be present at any place at which his agent may, in pursuance of this Act, attend.

52. The name and address of every agent of a candidate appointed to attend the counting of the votes shall be transmitted to the returning officer one clear day at the least before the opening of the poll; and

the returning officer may refuse to admit to the place where the votes are counted any agent whose name and address has not been so transmitted, notwithstanding that his appointment may be otherwise valid, and any notice required to be given to an agent by the returning officer may be delivered at or sent by post to such address.

53. If any person appointed an agent by a candidate for the purposes of attending at the polling station, or at the counting of the votes, dies, or becomes incapable of acting during the time of the election, the candidate may appoint another agent in his place, and shall forthwith give to the returning officer notice in writing of the name and address of the agent so appointed.

54. Every returning officer, and every officer, clerk, or agent authorized to attend at a polling station, or at the counting of the votes, shall, before the opening of the poll, make a statutory declaration of secrecy * in the presence, if he is the returning officer, of a justice of the peace, and if he is any other officer or an agent, of a justice of the peace or of the returning officer; but no such returning officer, officer, clerk, or agent as aforesaid shall, save as aforesaid, be required, as such, to make any declaration or take any oath on the occasion of any election.

55. Where in this Act any expressions are used requiring or authorizing or inferring that any act or thing is to be done in the presence of the agents of the candidates, such expressions shall be deemed to refer to the presence of such agents of the candidates as may be authorized to attend, and as have in fact attended, at the time and place where such act or thing is being done, and the non-attendance of any agents or agent at such time and place shall not,

* *See* p. 110.

if such act or thing be otherwise duly done, in anywise invalidate the act or thing done.

56. In reckoning time for the purposes of this Act, Sunday, Christmas Day, Good Friday, and any day set apart for a public fast or public thanksgiving, shall be excluded; and where anything is required by this Act to be done on any day which falls on the above-mentioned days, such thing may be done on the next day, unless it is one of the days excluded as above-mentioned.

57. In this Act—

The expression "district borough" means the borough of Monmouth and any of the boroughs specified in Schedule E. to the Act of the session of the second and third years of the reign of King William the Fourth, chapter forty-five, intituled "An Act to amend the Representation of the People in England and Wales;" and *

The expression "polling place" means, in the case of a borough, such borough or any part thereof in which a separate booth is required or authorized by law to be provided; and

The expression "agents of the candidates," used in relation to a polling station, means agents appointed in pursuance of section eighty-five of the Act of the session of the sixth and seventh years of the reign of Her present Majesty, chapter eighteen.†

* The following are the boroughs in question :—Beaumaris, Cardigan, Caermarthen, Caernarvon, Denbigh, Flint, Cardiff, Montgomery, Haverfordwest, Pembroke, and Radnor.

† This section is as follows :—"And for the more effectual detection of the personation of voters at elections, be it enacted that it shall be lawful for any candidate at any election of a member or members to serve in Parliament for any county, city, or borough, previous to the time fixed for taking the poll at such election, to nominate and appoint an agent or agents on his behalf to attend at each or any of

Modifications in Application of Part I. of Schedule to Scotland.

58. In Scotland, the place of election shall be a convenient room situate in the town in which the writ for the election would, if this Act had not passed, have been proclaimed.

59. In Scotland, the candidates may respectively appoint agents to attend at the polling stations. The ballot papers and other documents other than the return required to be sent to and kept by the Clerk of the Crown in Chancery, shall, in Scotland, be kept by the sheriff clerks of the respective counties in which the returns (including those for burghs) are made, and the provisions of this Schedule relating thereto shall be construed as if the sheriff clerk were substituted for Clerk of the Crown in Chancery.

60. In Scotland, the term "district borough" shall mean the combined burghs and towns specified in Schedule E. of the Act of the session of the second and third years of the reign of King William the Fourth, chapter sixty-five, intituled "An Act to amend the Representation of the People in Scotland;" and in Schedule A. of the Representation of the People (Scotland) Act, 1868.

61. The provisions of the Act of the session of the second and third years of the reign of King William the Fourth, chapter sixty-five, intituled "An Act to amend the Representation of the People in Scotland,"

the booths appointed for taking the poll at such election, for the purpose of detecting personation; and such candidate shall give notice in writing to the returning officer or his respective deputy of the name and address of the person or persons so appointed by him to act as agents for such purpose; and thereupon it shall be lawful for every such agent to attend during the time of polling at the booth or booths for which he shall have been so appointed."

in so far as they relate to the fixing and announcement of the day of election, the interval to elapse between the receipt of the writ and the day of election, the period of adjournment for taking the poll in the case of Orkney and Shetland, and of the district of burghs comprising Kirkwall, Wick, Dornoch, Dingwall, Tain, and Cromarty, and to the keeping open of the poll for two consccutive days in the case of Orkney and Shetland, shall remain in full force and effect, anything in this Act or any other Act of Parliament now in force notwithstanding; but nothing herein contained shall be construed to exclude Orkney and Shetland or Orkney or Shetland, or the said district of burghs, or any of the burghs in the said district, from any of the bencfits and obligations of the other portions of this Act.

Modifications in Application of Part I. of Schedule to Ireland.

62. The expression "Clerk of the Crown in Chancery" in this Schedule shall mean, as regards Ireland, "the Clerk of the Crown and Hanaper in Ireland."

63. A presiding officer at a polling station in a county in Ireland nced not be a freeholder of the county.

PART II.

RULES FOR MUNICIPAL ELECTIONS.

64. In the application of the provisions of this schedule to municipal elections the following modifications shall be made:—

(*a.*) The expression "register of voters" means the burgess roll of the burgesses of the

borough, or, in the case of an election for the ward of a borough, the ward list; and the mayor shall provide true copies of such register for each polling station:

(*b.*) All ballot papers and other documents which, in the case of a parliamentary election, are forwarded to the Clerk of the Crown in Chancery shall be delivered to the town clerk of the municipal borough in which the election is held, and shall be kept by him among the records of the borough; and the provisions of Part I. of this schedule with respect to the inspection, production, and destruction of such ballot papers and documents, and to the copies of such documents, shall apply respectively to the ballot papers and documents so in the custody of the town clerk, with these modifications; namely,

(*a.*) An order of the county court having jurisdiction in the borough, or any part thereof, or of any tribunal in which a municipal election is questioned, shall be substituted for an order of the House of Commons, or of one of Her Majesty's Superior Courts; but an appeal from such county court may be had in like manner as in other cases in such county court: *

(*b.*) The regulations for the inspection of documents and the fees for the supply of copies of documents, of which copies are directed to be supplied, shall be prescribed by the council of the borough with the consent of one of Her Majesty's Principal

* The appeal will be to any one of the Superior Courts at Westminster. As to the practice in appeals from the county courts, see *Pollock and Nicoll's Practice of the County Courts*, cap. XX. p. 238.

Secretaries of State; and, subject as aforesaid, the town clerk, in respect of the custody and destruction of the ballot papers and other documents coming into his possession in pursuance of this Act, shall be subject to the directions of the council of the borough:

(*c.*) Nothing in this schedule with respect to the day of the poll shall apply to a municipal election.

Modifications in Application of Part II. of Schedule to Scotland.

65. In Part II. of this schedule as applying to Scotland—

The expression "register of voters" means the register, list, or roll of persons entitled to vote in a municipal election made up according to the law for the time being in force.

The expression "county court" means the sheriff court.

The expression "town clerk" includes the clerk appointed by the Commissioners of Police under the Act of the session of the thirteenth and fourteenth years of the reign of Her present Majesty, chapter thirty-three, intituled "An Act to make more effectual Provision for regulating the Police of Towns and Populous Places in Scotland, and for paving, draining, cleansing, lighting, and improving the same," and of the General Police and Improvement (Scotland) Act, 1862.

Modifications in Application of Part II. of Schedule to Ireland.

66. In Part II. of this schedule as applying to Ireland—

The expression "register of voters," in addition to the meaning specified in such part, means, in relation to any municipal borough subject to the provisions of a local Act requiring an annual revision of the lists of voters at municipal elections, the register of voters made in conformity with the said provisions of such local Act, and in relation to municipal boroughs to which Part II. of the Local Government (Ireland) Act, 1871, applies, the list to be made under the provisions of section twenty-seven of the said Act, and in relation to other municipal boroughs a list which the town clerk of every municipal borough is hereby authorized and directed to make, in like manner in every respect as if the provisions of the said section were applicable to and in force within such municipal borough.

The expression "county court" means the Civil Bill Court.

The expression "town clerk" includes clerk to the commissioners, municipal commissioners, town commissioners, or township commissioners of any municipal borough, and any person executing the duties of such town clerk.

The expression "council of the borough" includes commissioners, municipal commissioners, and town commissioners of the

town, and township commissioners of the township.

The expression "one of Her Majesty's Principal Secretaries of State" means the Chief Secretary of the Lord Lieutenant of Ireland.

SECOND SCHEDULE.

Note.—The forms contained in this schedule, or forms as nearly resembling the same as circumstances will admit, shall be used in all cases to which they refer and are applicable, and when so used shall be sufficient in law.

Writ for a County or Borough at a Parliamentary Election.

* Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, to the † of the county [*or* borough] of greeting:

‡ Whereas by the advice of our council we have ordered a Parliament to be holden at Westminster on the day of next. We command you that, notice of the time and place of election being first duly given, you do cause election to be made according to law of members [*or* a member] to serve in Parliament for the said county [*or* the division of the said county, *or* the

* The name of the Sovereign may be altered when necessary.

† Insert "sheriff" or other returning officer.

‡ This preamble to be omitted except in case of a general election.

borough, *or as the case may be*] of
and that you do cause the names of such members [*or* member] when so elected, whether they [*or* he] be present or absent, to be certified to us, in our Chancery, without delay.

Witness ourself at Westminster, the day of in the year of our reign, and in the year of our Lord 18

Label or Direction of Writ.

To the † of
A writ of a new election of members [*or* member] for the said county [*or* division of a county *or* borough, *or as the case may be*].

Endorsement.

Received the within writ on the day of 18 .

(Signed) *A.B.*,
High Sheriff [*or* Sheriff, *or* Mayor, *or as the case may be*].

Certificate endorsed on the Writ.

I hereby certify, that the members [*or* member] elected for in pursuance of the within-written writ, are [*or* is] *A.B.* of
in the county of and *C.D.* of
in the county of .

(Signed) *A.B.*,
High Sheriff [*or* Sheriff, *or* Mayor, *or as the case may be*].

* Except in a general election, insert here "in the lace of A.B. deceased," or otherwise, stating the cause of vacancy.

† Insert "sheriff" or other returning officer.

Note.—A separate writ will be issued for each county as defined for the purposes of a parliamentary election.

Form of Notice of Parliamentary Election.

The returning officer of the of will, on the day of now next ensuing, between the hours of and , proceed to the nomination, and, if there is no opposition, to the election of a member [*or* members] for the said county [*or* division of a county *or* borough] at the *

Forms of nomination paper may be obtained at *, between the hours of and on . Every nomination paper must be signed by two registered electors as proposer and seconder, and by eight other registered electors as assenting to the nomination.

Every nomination paper must be delivered to the returning officer by the candidate proposed, or by his proposer and seconder, between the said hours of and on the said day of at the said *

Each candidate nominated, and his proposer and seconder, and one other person selected by the candidate, and no other persons, are entitled to be admitted to the room. In the event of the election being contested, the poll will take place on the day of

(Signed) *A. B.*,
Sheriff [*or* Mayor, *or as the case may be*].
day of 18 .

Take notice, that all persons who are guilty of bribery, treating, undue influence, personation, or other corrupt

* Insert description of place and room.

practices at the said election will, on conviction of such offence, be liable to the penalties mentioned in that behalf in "The Corrupt Practices Prevention Act, 1854," and "The Ballot Act, 1872," and the Acts amending the said Acts.*

Form of Nomination Paper in Parliamentary Election.

We, the undersigned *A.B.* of in the of and *C.D.* of in the of

* Under the "Corrupt Practices Prevention Act, 1854" (17 & 18 Vict. c. 102), those who commit the offence of bribery as there defined (sec. 2) are guilty of a misdemeanour, for which they may be prosecuted criminally, and are also liable to forfeit the sum of £100 to any person who shall sue for the same, together with the full costs of suit. Those who take bribes are also guilty of a misdemeanour, and are also liable to forfeit the sum of £10 to any person who shall sue for the same, together with full costs of suit. Candidates guilty of "treating" are to forfeit £50 to any one who sues for the same, with full costs of suit; while every voter who corruptly accepts meat, drink, entertainment or provision at an election is to be incapable of voting at such election, and his vote, if given, is to be void. Persons exercising undue influence (sec. 5) upon electors to compel or induce them either to vote or to refrain from voting are guilty of a misdemeanour, and are also liable to forfeit £50 to any person who sues for the same, with full costs of suit. No person is, however, to be liable either to prosecution for a misdemeanour or to be sued for the penalties imposed by this Act unless the prosecution or action is commenced within a year after the commission of the offence. Whenever it is proved to the revising barrister that any person who is or claims to be placed on the register of voters for any county or borough has been convicted of bribery or undue influence at an election, or that judgment has been recovered against him for any penal sum in respect of bribery, treating, or undue influence, the revising barrister is either to expunge the name of such person from the register or to disallow his claim. If any candidate at an election for any county or borough is declared by an election judge guilty *by himself or his agents* of bribery, treating, or undue influence at any election, such candidate will be incapable of being elected or sitting in parliament for such county or borough during the parliament then in existence. With regard to the punishment of personation under "The Ballot Act, 1872," see *ante*, p. 70.

being electors for the of , do hereby nominate the following person as a proper person to serve as member for the said in Parliament:

Surname.	Other Names.	Abode.	Rank, Profession, or Occupation.
BROWN	JOHN	52, George St., Bristol.	Merchant.
JONES	*or* WILLIAM DAVID	High Elms, Wilts.	Esquire.
MERTON	*or* Hon. GEORGE TRAVIS, commonly called Viscount.	Swanworth, Berks.	Viscount.
SMITH	*or* HENRY SYDNEY	72, High St., Bath.	Attorney.

(Signed) *A.B.*
C.D.

We, the undersigned, being registered electors of the , do hereby assent to the nomination of the

above-mentioned *John Brown* as a proper person to serve as member for the said in Parliament.

(Signed) *E.F.* of

G.H. of

I.J. of

K.L. of

M.N. of

O.P. of

Q.R. of

S.T. of

Note.—Where a candidate is an Irish peer, or is commonly known by some title, he may be described by his title as if it were his surname.

Form of Nomination Paper in Municipal Election.

Note.—The form of nomination paper in a municipal election shall as nearly as circumstances admit be the same as in the case of a parliamentary election.

Counterfoil No.

NOTE: *The counterfoil is to have a number to correspond with that on the back of the Ballot Paper.*

Form of Ballot Paper.

Form of Front of Ballot Paper.

1	BROWN (John Brown, of 52, George St., Bristol, merchant.)	
2	JONES (William David Jones, of High Elms, Wilts, esq.)	
3	MERTON (Hon. George Travis, commonly called Viscount Merton, of Swanworth, Berks.)	
4	SMITH (Henry Sydney Smith, of 72, High Street, Bath, attorney.)	

Form of Back of Ballot Paper.

No.

Election for county [*or* borough, *or* ward].

18

Note.—The number on the ballot paper is to correspond with that in the counterfoil.

Directions as to Printing Ballot Paper.

Nothing is to be printed on the ballot paper except in accordance with this schedule.

The surname of each candidate, and if there are two or more candidates of the same surname, also the other names of such candidates, shall be printed in large characters, as shown in the form, and the names, addresses, and descriptions, and the number on the back of the paper, shall be printed in small characters.

*Form of Directions for the Guidance of the Voter in voting, which shall be printed in conspicuous Characters, and placarded outside every Polling Station and in every Compartment of every Polling Station.**

The voter may vote for candidate

The voter will go into one of the compartments, and, with the pencil provided in the compartment, place a cross on the right-hand side, opposite the name of each candidate for whom he votes, thus ×

The voter will then fold up the ballot paper so as to show the official mark on the back, and leaving the compartment will, without showing the front of the paper to any person, show the official mark on the back to the presiding officer, and then, in the presence of the presiding officer, put the paper into the ballot box, and forthwith quit the polling station.

If the voter inadvertently spoils a ballot paper, he

* *See*, for observations on the effect and obligatory force of this form, note to Clause 2, p. 39.

can return it to the officer, who will, if satisfied of such inadvertence, give him another paper.

If the voter votes for more than candidate, or places any mark on the paper by which he may be afterwards identified, his ballot paper will be void, and will not be counted.

If the voter takes a ballot paper out of the polling station, or deposits in the ballot box any other paper than the one given him by the officer, he will be guilty of a misdemeanour, and be subject to imprisonment for any term not exceeding six months, with or without hard labour.

Note.—These directions shall be illustrated by examples of the ballot paper.

Form of Statutory Declaration of Secrecy.

I solemnly promise and declare, That I will not at this election for do anything forbidden by section four of "The Ballot Act, 1872," which has been read to me.

Note.—The section must be read to the declarant by the person taking the declaration.

Form of Declaration of inability to read.

I, *A.B.*, of , being numbered on the Register of Voters for the county [*or* borough] of , do hereby declare that I am unable to read.

A.B., his mark.

day of

I, the undersigned, being the presiding officer for the polling station for the county [*or* borough] of , do

hereby certify, that the above declaration, having been first read to the above-named *A.B.*, was signed by him in my presence with his mark.

(Signed) *C.D.*,
Presiding officer for polling station
for the county [*or* borough] of
day of

THIRD SCHEDULE.

Provisions of Registration Acts referred to in Part III. of the foregoing Act.

Session and Chapter.	Title.	Part applied.
	AS TO ENGLAND.	
6 & 7 Vict. c. 18.	An Act to amend the law for the registration of persons entitled to vote, and to define certain rights of voting, and to regulate certain proceedings in the elections of members to serve in Parliament for England and Wales.	Sections eighty-five to eighty-nine, both inclusive.
	AS TO IRELAND.	
13 & 14 Vict. c. 69.	An Act to amend the laws which regulate the qualification and registration of parliamentary voters in Ireland, and to alter the law for rating immediate lessors of premises to the poor rate in certain boroughs.	Sections ninety-two to ninety six, both inclusive.

FOURTH SCHEDULE.

ACTS RELATING TO ENGLAND.

NOTE.—This schedule, so far as respects Acts prior to the tenth year of the reign of George the Third, refers to the edition prepared under the direction of the Lord Chancellor, intituled "The Statutes, Revised Edition."

A description or citation of a portion of an Act is inclusive of the words, section, or other part first or last mentioned, or otherwise referred to as forming the beginning or as forming the end of the portion comprised in the description or citation.

Portions of Acts which have already been specifically repealed, are in some instances included in the repeal in this schedule, in order to preclude henceforth the necessity of looking back to previous Acts.

Session and Chapter.	Title or abbreviated Title.	Extent of Repeal.
7 Hen. 4.	Statute of the seventh year.	Chapter fifteen.
8 Hen. 6.	Statutes of the eighth year of K. Henry VI.	Chapter seven, from "and such as have the greatest number" to "shall lose their wages" and from "and that in every writ that shall hereafter go forth" to the end of the chapter.
23 Hen. 6.	Here begin the statutes made at Westminster in the twenty-third year.	Chapter fourteen.
7 & 8 Will. 3. c. 25.	An Act for the further regulating elections of members to serve in Parliament, and for the preventing irregular proceedings of sheriffs and other officers in the electing and returning such members.	Sections three and four, and section five down to "writing the same."
* 10 Will. 3. c. 7.	An Act for preventing irregular proceedings of sheriffs and other officers in making the returns of members chosen to serve in Parliament.	So much as is unrepealed.
2 Geo. 2. c. 24.	An Act for the more effectual preventing bribery and corruption in the elections of members to serve in Parliament.	Sections three and nine.

* 10 & 11 W. 3. in running headings in ordinary editions.

Session and Chapter.	Title or abbreviated Title.	Extent of Repeal.
18 Geo. 2. c. 18.	An Act to explain and amend the laws touching the elections of knights of the shire to serve in Parliament for that part of Great Britain called England.	Section five, from "or shall vote more than once," to the end of that section, and sections nine to sixteen.
19 Geo. 2. c. 28.	An Act for the better regulating of elections of members to serve in Parliament for such cities and towns in that part of Great Britain called England as are counties of themselves.	Section four, from "or shall vote more than once," to end of that section, and sections six to twelve.
3 Geo. 3. c. 15.	An Act to prevent occasional freemen from voting at elections of members to serve in Parliament for cities and boroughs.	Section seven.
11 Geo. 3. c. 55.	*An Act the title of which begins with the words* "An Act to incapacitate," *and ends with the words* "New Shoreham, in the county of Sussex."	The whole Act.
21 Geo. 3. c. 54.	An Act for the better regulating elections of citizens to serve in Parliament for the city of Coventry.	Sections seven to nine and fourteen.
22 Geo. 3. c. 31.	An Act for the preventing of bribery and corruption in the election of members to serve in Parliament for the borough of Cricklade in the county of Wilts.	The whole Act.
25 Geo. 3. c. 84.	*An Act the title of which begins with the words* "An Act to limit the duration," *and ends with the words* "to serve in Parliament."	The whole Act, except section one down to "make a return of such person or persons," and section three in so far as that part of a section and section relate to the universities.
Geo. 3. c. 64.	*An Act the title of which begins with the words* "An Act to explain and amend an Act," *and ends with the words* "time and place of election."	The whole Act, except so far as it relates to the universities.
34 Geo. 3. c. 73.	An Act for directing the appointment of Commissioners	The whole Act.

Session and Chapter.	Title or abbreviated Title.	Extent of Repeal.
34 Geo. 3. c. 73.—*cont.*	to administer certain oaths and declarations required by law to be taken and made by persons offering to vote at the election of members to serve in Parliament.	
42 Geo. 3. c. 62.	An Act for extending the provisions of an Act made in the thirty-fourth year of the reign of His present Majesty, intituled "An Act for directing the appointment of Commissioners to administer certain oaths and declarations required by law to be taken and made by persons offering to vote at the election of members to serve in Parliament," to all oaths now required by law to be taken by voters at elections for members to serve in Parliament.	The whole Act.
43 Geo. 3. c. 74.	An Act for further regulating the administration of the oath or affirmation required to be taken by electors of members to serve in Parliament, by an Act passed in the second year of King George the Second, intituled "An Act for the more effectual preventing bribery and corruption in the election of members to serve in Parliament."	The whole Act.
44 Geo. 3. c. 60.	An Act for the preventing of bribery and corruption in the election of members to serve in Parliament for the borough of Aylesbury in the county of Buckingham.	The whole Act.
11 Geo. 4. & 1 Will. 4. c. 74.	An Act to prevent bribery and corruption in the election of burgesses to serve in Parliament for the borough of East Retford.	The whole Act.
2 & 3 Will. 4. c. 45.	An Act to amend the representation of the people in England and Wales.	Sections fifty-eight to sixty; sections sixty-two, sixty-three, sixty-five, sixty-seven; part of section sixty-eight,

Session and Chapter.	Title or abbreviated Title.	Extent of Repeal.
2 & 3 Will. 4. c. 45.—*cont.*		namely, from "shall if required thereby" down to "poll at each compartment, and," and from "and in case the booths shall be situated in different places" to "lawfully closed;" and section sixty-nine; and section seventy-one from "and that all deputies" to "candidates at such election," and from "provided also, that the sheriff" to the end of the section; and sections seventy-two, seventy-three, and seventy-four.
2 & 3 Will. 4. c. 64.	An Act to settle and describe the divisions of counties and the limits of cities and boroughs in England and Wales, in so far as respects the election of members to serve in Parliament.	Sections twenty-nine to thirty-three, and so much of section thirty-four as relates to taking the poll.
5 & 6 Will. 4. c. 36.	An Act to limit the time of taking the poll in boroughs at contested elections of members to serve in Parliament to one day.	The whole Act, except section two, down to "in the forenoon," and from "and the polling" to "in the afternoon;" and sections seven to nine.
5 & 6 Will. 4. c. 76.	An Act to provide for the regulation of municipal corporations in England and Wales.	The words "openly assemble and" in section thirty; section thirty-two from "by delivering to the mayor and assessors" to the end of that section, and so much of the rest of that section as relates to assessors; section thirty-three from "and shall be so divided" to "poll. at each compartment, and," and from "and in case the booths" to "at each place;" the words "Are you the person whose name is signed as A.B. to the voting paper now delivered in by you" in section thirty-four, and section thirty-five from "and the mayor shall cause the voting papers" to end of that section, and so much of the rest of that section as relates to assessors; and so much of sections forty-three, forty-four, and forty-six as relates to assessors.

Session and Chapter.	Title or abbreviated Title.	Extent of Repeal.
6 & 7 Will. 4. c. 102.	An Act for rendering more easy the taking the poll at county elections.	The whole Act.
6 & 7 Vict. c. 18.	An Act to amend the law for the registration of persons entitled to vote and to define certain rights of voting, and to regulate certain proceedings in the election of members to serve in Parliament for England and Wales.	Section seventy-nine from "Provided always, that it shall not be lawful" to end of that section; section eighty; so much of section eighty-one as relates to a commissioner or commissioners; sections eighty-three, eighty-four, and ninety-one, sections ninety-four to ninety-six, and sections ninety-eight and ninety-nine.
16 & 17 Vict. c. 15.	An Act to limit the time of taking the poll in counties at contested elections for knights of the shire to serve in Parliament in England and Wales to one day.	The whole Act, except section two, down to "in the afternoon of such day," and section three.
16 & 17 Vict. c. 68.	An Act to limit the time for proceeding to election in counties and boroughs in England and Wales, and for polling at elections for the Universities of Oxford and Cambridge, and for other purposes.	Sections two, three, seven, and eight.
17 & 18 Vict. c. 102.	"The Corrupt Practices Prevention Act, 1854."	Section eleven and Schedule B.
22 Vict. c. 35.	"The Municipal Corporation Act, 1859."	So much of section seven as relates to the form of nomination paper, and so much of section eight as relates to assessors.
25 & 26 Vict. c. 95.	An Act to amend the law relating to polling places in the boroughs of New Shoreham, Cricklade, Aylesbury, and East Retford.	The whole Act.
30 & 31 Vict. c. 102.	"The Representation of the People Act, 1867."	Section thirty-five; section thirty-seven from "wherein any place" to the end of that section; section thirty-nine.

Session and Chapter.	Title or abbreviated Title.	Extent of Repeal.
31 & 32 Vict. c. 58.	"The Parliamentary Electors Registration Act, 1868."	Sections four to sixteen, twenty-four, twenty-six, thirty-four, and thirty-six.
31 & 32 Vict. c. 125.	"The Parliamentary Elections Act, 1868."	Section forty, from "Provided always," to the end of that section.

FIFTH SCHEDULE.

ACTS RELATING TO SCOTLAND.

A description or citation of a portion of an Act is inclusive of the words, section, or other part first or last mentioned, or otherwise referred to as forming the beginning or as forming the end of the portion comprised in the description or citation.

Session and Chapter.	Title of Act.	Extent of Repeal.
& 3 Will. 4. c. 65.	An Act to amend the representation of the people in Scotland.	Sections twenty-four and twenty-five; section twenty-six; section twenty-seven from the words "and each substitute so superintending" to the end of that section; section twenty-eight from the words "and shall within three days" to the end of that section; section twenty-nine the words "the market cross or some other convenient and open place in or immediately adjoining," and from the words "and if no more than one candidate" to the end of that section; section thirty the words "the market cross or some other convenient and open place in or immediately adjoining," and

Session and Chapter.	Title of Act.	Extent of Repeal.
2 & 3 Will. 4. c. 65.—*cont.*		from the words "and if no more candidates" down to the words "Saturdays and Sundays," and from the words "and the sheriff who proclaimed the writ" to the end of that section; sections thirty-two, thirty-three, and thirty-nine; sections forty-three, forty-seven, and forty-eight.
3 & 4 Will. 4. c. 76.	An Act to alter and amend the laws for the election of the magistrates and councils of the royal burghs in Scotland.	Section eight so far as it provides that the election shall be by "open" poll, and from the words "and each poll clerk shall enter" to the end of that section; section ten, so far as it relates to poll-books; section eleven, so far as it relates to voting by lists; and the words "assemble in the town hall or other public room of such burgh and," and from the words "and the provost" to the end of that section; section fifteen, so far as inconsistent with this Act; section eighteen; section thirty-six from the commencement to "Provided always, that;" and section thirty-eight.
3 & 4 Will. 4. c. 77.	An Act to provide for the appointment and election of magistrates and councillors for the several burghs and towns of Scotland which now return or contribute to return members to Parliament, and are not royal burghs.	Section four so far as it provides that the election shall be by open poll; and from the words "and each poll clerk shall enter" to the end of that section; section eight and section nine from the words "assemble in the town hall" to the words "in each such burgh or town;" so much of the section as relates to voting by lists, and from the words "and such town clerk" to the end of that section; section eleven so far as inconsistent with this Act; and sections eighteen and thirty-four.
4 & 5 Will. 4. c. 86.	*An Act the title of which begins with the words* "An Act to	The whole Act.

Session and Chapter.	Title of Act.	Extent of Repeal.
4 & 5 Will. 4. c. 86.—*cont.*	explain certain provisions," *and ends with the words* "to return members to Parliament, and are not royal burghs."	
4 & 5 Will. 4. c. 87.	*An Act the title of which begins with the words* "An Act to explain certain provisions," *and ends with the words* "of the royal burghs of Scotland."	The whole Act.
4 & 5 Will. 4. c. 88.	An Act for the more effectual registration of persons entitled to vote in the election of members to serve in Parliament.	The whole Act.
5 & 6 Will. 4. c. 78.	*An Act the title of which begins with the words* "An Act to explain and amend an Act," *and ends with the words* "and to diminish the expenses thereof."	Sections one and two; section five from "and after the poll" to "the declaration;" sections six, seven, eight, twelve, thirteen, and fifteen.
13 & 14 Vict. c. 33.	An Act to make more effectual provision for regulating the police of towns and populous places in Scotland, and for paving, draining, cleansing, lighting, and improving the same.	Sections seven to eleven and thirteen to twenty-six; sections twenty-nine and thirty, so far as their provisions are inconsistent with the provisions of this Act, and Schedules (A.), (B.), and (C.).
16 & 17 Vict. c. 28.	An Act to amend the law as to taking the poll at elections of members to serve in Parliament for Scotland.	Sections one and ten.
18 & 19 Vict. c. 24.	*An Act the title of which begins with the words* "An Act to amend an Act," *and ends with the words* "in county elections in that country."	The whole Act.
24 & 25 Vict. c. 83.	An Act to amend the law regarding the registration of county voters in Scotland.	Schedule (D.) annexed to the Act from the words "and that I am possessed" to the end of the said schedule.
25 & 26 Vict. c. 101.	*An Act the title of which begins with the words* "An Act to make more effectual provision for regulating the police," *and ends with the words* "and also for promoting the public health thereof."	Sections forty-six, forty-seven, and fifty, so far as their provisions are inconsistent with the provisions of this Act.

Session and Chapter.	Title of Act.	Extent of Repeal.
28 & 29 Vict. c. 92.	An Act to shorten the time for the election of members for the Ayr district of Burghs.	The whole Act.
31 & 32 Vict. c. 48.	An Act for the amendment of the representation of the people in Scotland.	Section twenty-four from the words "and in the case of a poll being demanded" to the words "the said sheriff of the county of Peebles;" and sections forty-four and fifty-four; and section fifty-nine from the words "oath of possession" to the end of that section.
31 & 32 Vict. c. 58.	*An Act the title of which begins with the words* "An Act to amend the law of registration," *and ends with the words* "other purposes relating thereto."	Section thirteen.

SIXTH SCHEDULE.

ACTS RELATING TO IRELAND.

A description or citation of a portion of an Act is inclusive of the words, section, or other part first or last mentioned, or otherwise referred to as forming the beginning or as forming the end of the portion comprised in the description or citation.

Acts of the Parliament of Ireland.

Session and Chapter.	Title.	Extent of Repeal.
10 Hen. 7. c. 22.	An Act confirming all the statutes made in England.	So much of the same as extends to Ireland the provisions of the Acts of the Parliament of England following; namely,—7 Hen. 4.

Session and Chapter.	Title.	Extent of Repeal.
10 Hen. 7. c. 22.—*cont.*		chapter fifteen, 8 Hen. 6. chapter seven, from "and such as have the greatest number" to "shall lose their wages," and from "and that in every writ that shall hereafter go forth" to the end of the chapter, 23 Hen. 6. chapter fourteen.
35 Geo. 3. c. 29.	An Act for regulating the election of members to serve in Parliament, and for repealing the several Acts therein mentioned.	Section three, sections five to thirteen, sections fifteen to eighteen, section twenty.

ACTS OF THE PARLIAMENT OF THE UNITED KINGDOM.

1 Geo. 4. c. 11.	An Act for the better regulation of polls, and for making further provision touching the election of members to serve in Parliament for Ireland.	Sections two and three, section five from the words "and that such sheriff" to the end of that section, sections six to twenty-one, section twenty-three, sections forty-one and forty-two.
9 Geo. 4. c. 82.	An Act to make provision for the lighting, cleansing, and watching of cities, towns, corporations, and market towns in Ireland in certain cases.	So much of sections twelve and sixteen as prescribes the mode of election of commissioners.
4 Geo. 4. c. 55.	An Act to consolidate and amend the several Acts now in force, so far as the same relate to the election and return of members to serve in Parliament for counties of cities and counties of towns in Ireland.	Section thirty-three from the words "and that such sheriffs" to the end of that section, sections thirty-four to forty-seven, sections forty-nine to fifty-nine, sections sixty to sixty-two, sections sixty-four and sixty-five, sections sixty-eight to seventy, seventy-two, seventy-six, and seventy-seven.
2 & 3 Will. 4. c. 88.	An Act to amend the representation of the people of Ireland.	Section thirty, section forty-eight, and sections forty-nine to fifty-four.
3 & 4 Vict. c. 108.	An Act for the regulation of municipal corporations in Ireland.	Section sixty-four from the words "by delivering to the mayor or barrister" to the

Session and Chapter.	Title.	Extent of Repeal.
3 & 4 Vict. c. 108.—*cont.*		end of that section, and so much of that section as relates to assessors; section sixty-five from "and shall be so divided" to "poll at each compartment," and from "in case the booths" to "at each place;" the words "are you the person whose name is signed as A.B. to the voting paper now delivered in by you," in section sixty-six; section sixty-eight from "and the mayor shall cause the voting papers" to the end of that section, and so much of the rest of that section as relates to assessors; and so much of section seventy as relates to ward assessors.
& 7 Vict. c. 93.	An Act to amend an Act of the third and fourth years of Her present Majesty for the regulation of municipal corporations in Ireland.	Section twenty-three.
9 & 10 Vict. c. 19.	An Act to amend an Act of the second and third years of His late Majesty by providing additional booths or polling places at elections in Ireland where the number of electors whose names shall begin with the same letter of the alphabet shall exceed a certain number.	The whole Act.
13 & 14 Vict. c. 68.	An Act to shorten the duration of elections in Ireland, and for establishing additional places for taking the poll thereat.	Section one, section three, section four, sections ten to fourteen, so much of section fifteen as prescribes the interval between the election and the polling, section sixteen, section nineteen from "and that all the deputies" to "at the expense of the candidates," section twenty, section twenty-two.
13 & 14 Vict. c. 69.	An Act to amend the laws which regulate the qualification and registration of parliamentary voters in Ire-	Sections eighty-six, ninety-eight, ninety-nine; section one hundred; sections one hundred and one and one

Session and Chapter.	Title.	Extent of Repeal.
13 & 14 Vict. c. 69.—*cont.*	land, and to alter the law for rating immediate lessors of premises to the poor rate in certain boroughs.	hundred and two, sections one hundred and four and one hundred and five.
17 & 18 Vict. c. 102.	The Corrupt Practices Prevention Act, 1854.	Section eleven, and Schedule B.
17 & 18 Vict. c. 103.	The Towns Improvement (Ireland) Act, 1854.	So much of section twenty-four as incorporates the sections of 10 & 11 Vict. c. 16. following; that is to say,—sections twenty-three, twenty-six, and twenty-seven; section twenty-eight, from the words "and shall be conducted in manner following" to "carefully preserved by the presiding officer, and," and the question numbered I.; section thirty from "the returning officer" to "each person and," and section thirty-one, and so much of any Act as incorporates the part of the said section twenty-four hereby repealed.
25 & 26 Vict. c. 62.	An Act to amend the law relating to the duration of contested elections for counties in Ireland, and for establishing additional places for taking the poll thereat.	Part of section four, namely, so much as prescribes the interval between the day fixed for the election and the polling; section five, sections eight to ten.
25 & 26 Vict. c. 92.	An Act to limit the time for proceeding to elections in counties and boroughs in Ireland.	Section one, and section two from the words "and in every city or town" to the end of that section.
31 & 32 Vict. c. 49.	An Act to amend the representation of the people in Ireland.	Section twelve from the words "several boroughs" to the word "Cork," and the words "and county of the city of Limerick."
31 & 32 Vict. c. 112.	An Act to amend the law of registration in Ireland.	Sections four to thirty; section thirty-eight.

APPENDIX.

THE following are the provisions of the Registration Acts referred to in the third part of the Ballot Act relating to personation, so far as they relate to England.

6 & 7 VICT. c. 68.

Sec. 85.—And for the more effectual detection of the personation of voters at elections, be it enacted that it shall be lawful for any candidate at any election of a member or members to serve in Parliament for any county, city, or borough, previous to the time fixed for taking the poll at such election, to nominate and appoint an agent or agents on his behalf, to attend at each or any of the booths appointed for taking the poll at such election, for the purpose of detecting personation; and such candidate shall give notice in writing to the returning officer, or his respective deputy, of the name and address of the person or persons so appointed by him to act as agent or agents for such purpose; and thereupon it shall be lawful for every such agent to attend during the time of polling at the booth or booths for which he shall have been so appointed.

Sec. 86.—And be it enacted that if, at the time any person tenders his vote at such election, or after he has voted and before he leaves the polling booth, any such agent, so appointed as aforesaid, shall declare to the returning officer, or his respective deputy, presiding therein, that he verily believes and undertakes to prove

that the said person so voting is not in fact the person in whose name he assumes to vote, or to the like effect, then, and in every such case, it shall be lawful for the said returning officer or his said deputy, and he is hereby required, immediately after such person shall have voted, by word of mouth, to order any constable or other peace officer to take the said person so voting into his custody, which said order shall be a sufficient warrant and authority to the said constable or peace officer for so doing: Provided always that nothing herein contained shall be construed or taken to authorize any returning officer or his deputy to reject the vote of any person who shall answer in the affirmative the questions authorized by this Act to be put to him at the time of polling, and shall take the oaths or make the affirmations authorized and required of him; [but the said returning officer or his deputy shall cause the words "Protested against for personation to be placed against the vote of the person so charged with personation when entered on the poll-book."]*

Sec. 87.—And be it enacted, that every such constable or peace officer shall take the person so in his custody, at the earliest convenient time, before some two justices of the peace acting in and for the county, city, or borough within which the said person shall have so voted as aforesaid: Provided always that in case the attendance of two such justices as aforesaid cannot be procured within the space of three hours after the close of the poll on the day on which such person shall have been so taken into custody, it shall be lawful for the said constable or peace officer, and he is hereby required, at the request of such person so in his custody, to take him before any one justice of the peace acting as aforesaid, and such justice is hereby authorized and required to liberate such person on his entering into a recognizance with one sufficient surety, conditioned to appear before any two such justices as aforesaid, at a time and place to be specified in such recognizance, to answer the said charge; and if no such

* The latter part of this section, which is here enclosed in brackets, is of course inapplicable to votes taken by ballot.

justice shall be found within four hours after the closing of the said poll, then such person shall forthwith be discharged from custody: Provided also that if, in consequence of the absence of such justices as aforesaid, or from any other cause, the said charge cannot be inquired into within the time aforesaid, it shall be lawful, nevertheless, for any two such justices as aforesaid to inquire into the same on the next or on some other subsequent day, and, if necessary, to issue their warrant for the apprehension of the person so charged.

Sec. 88.—And be it enacted that if, on the hearing of the said charge, the said two justices shall be satisfied, upon the evidence on oath of not less than two credible witnesses, that the said person so brought before them has knowingly personated and falsely assumed to vote in the name of some other person, within the meaning of this Act, and is not in fact the person in whose name he voted, then it shall be lawful for the said two justices to commit the said offender to the gaol of the county, city, or borough within which the offence was committed, to take his trial according to law, and to bind over the witnesses in such recognizances to appear and give evidence on such trial, as in the case of other [misdemeanours].*

Sec. 89.—And be it enacted that if the said justices shall, on the hearing of the said charge, be satisfied that the said person so charged with personation is really and in truth the person in whose name he voted, and that the charge of personation has been made against him without reasonable or just cause, or if the agent so declaring as aforesaid, or some one on his behalf, shall not appear to support such charge before the said justices, then it shall be lawful for the said justices, and they are hereby required, to make an order in writing under their hands on the said agent so declaring as aforesaid, to pay to the said person so falsely charged, if he shall consent to accept the same, any sum not exceeding the sum of ten pounds, nor less than five pounds, by way of damages and costs; and if the said sum shall not be paid within twenty-four

* Personation is a felony under the Ballot Act. *See* sect. 24, p. 71.

hours after such order shall have been made, then the same shall be levied by warrant under the hand and seal of any justice of the peace acting as aforesaid, by distress and sale of the goods and chattels of the said agent; and in case no sufficient goods or chattels of the said agent can be found on which such levy can be made, then the same shall be levied in like manner upon the goods and chattels of the candidate by whom such agent was appointed to act; and in case the said sum shall not be paid or levied in the manner aforesaid, then it shall be lawful for the said person to whom the said sum of money was so ordered to be paid to recover the same from the said agent or candidate, with full costs of suit, in an action of debt to be brought in any one of Her Majesty's Superior Courts of Record at Westminster: Provided always that if the person so falsely charged shall have declared to the said justices his consent to accept such sum as aforesaid by way of damages and costs, and if the whole amount of the sum so ordered to be paid shall have been paid or tendered to such person, in every such case, but not otherwise, the said agent, candidate, and every other person shall be released from all actions or other proceedings, civil or criminal, for or in respect of such charge and apprehension.

The Act dealing with Personation in Ireland is the 13 & 14 Vict. c. 69, ss. 92 to 96; the provisions of which are taken verbatim from the clauses of the English Act given above.

INDEX.

PAGE

ACT—
To apply to any parliamentary or municipal election after its passing 76
Date of passing of 36
How long to continue in force 77
Except as to Part III. not to apply to University elections... 76

ADJOURNMENT—
Of election 37
For taking poll 37
Of poll 53

AGENTS OF CANDIDATES—
Ballot boxes to be opened in presence of 39
Duties of, in regard to maintenance of secrecy of voting ... 43
To sign declaration of secrecy 43, 95
Not to vote at election 73
If they vote, votes will be struck off 73
Rights and duties of, in regard to counting votes 88–90
Appointment to be notified to returning officer 94
A candidate may act as his own agent 94
If agent dies, another may be appointed 95

ATTEMPT—
To commit offences in respect of nomination papers, ballot papers, and ballot boxes 42

BALLOT BOX—
Ballot papers to be placed in 37
To be closed 39, 84
To be shown empty before commencement of poll 85
To be placed in presence of presiding officer 39
What is to be done with, on close of poll 39, 87
To be taken charge of by returning officer 39
In whose presence to be opened 39
Municipal ballot boxes, &c., may be used for parliamentary elections, and *vice versâ* 55

PAGE

BALLOT PAPER—
The ballot consists of a paper 38
Contents of 38, 84
Form of 108
To have counterfoil attached... 38
To be marked with official mark 39, 85
Other things to be done before delivery to voter 85
To be delivered to voter within polling station 39, 85
To be marked secretly by voter 39, 85
To be folded up so as to conceal vote 39, 85
To be placed, so folded, in ballot box 39, 85
Tendered 86
When void 39
Returning officer to decide as to validity of... 40
What to be done, if spoilt 87
Forgery, counterfeits, defacing, or destroying 41
Supplying to any one without due authority 41
Putting into ballot box any paper other than 41
Fraudulently taking out of station 41
Infringement of secrecy of 43
No one to induce voter to display 43
No one to interfere with voter when marking 43
No one to attempt to obtain information as to manner in which filled up 43
What to be done with on close of poll 87
Person obtaining, in name of another person, guilty of personation 70
To be forwarded, after counting, to clerk of crown... ... 90
When, how, and by whose order they may be inspected ... 92

BLIND VOTERS—
Their ballot papers may be marked by presiding officer ... 86

BOROUGH—
Division into polling districts 44

BOROUGH ELECTION—
When nomination to take place 36, 79
Notice with respect to 79
Hours within which to be held 79
Poll at, when... 83

BRIBERY—
When vote to be struck off for 73

PAGE

CANDIDATES—
How to be nominated 36, 80
By whom to be nominated 36
How to be described 80
Objections to nomination of 80
Publication of notice of nomination of 82
Return of, when there is no contest... 37
Notice with respect to, in case of poll 81, 182
Withdrawal of 37, 182
When duly nominated 82
Death of, between the nomination and the poll 38
Name of, not to be inserted in ballot paper unless nominated in accordance with Act 82
Objections to the validity of nomination of 82
When equality of votes, returning officer to give casting vote 40
May act as his own agent 94

CLOSE OF POLL—
What is to be done on closing poll 39, 87
Ballot boxes to be sealed up 39, 87
How ballot papers and other documents to be dealt with... 87
Statement to be made by presiding officer 88

CONSTRUCTION—
Of Act 56

CORRUPT PRACTICE—
Personation, a 72
Effect of, under 31 & 32 Vict. c. 125 72

COUNTERFOIL—
To be attached to ballot paper 38
Both counterfoil and ballot paper to bear the same number 38
Number of voter on register to be marked on ... 37, 85
To be sent to clerk of crown after election 90
When, how, and by whose order counterfoils may be inspected 91-92

COUNTING VOTES—
Rules as to 88-90

COUNTY—
Nomination for 36
When nomination to take place 79
Division into polling districts 44

PAGE

COUNTY ELECTION—
When notice of must be given 78
How notices of are to given 78
Publication of notice by postmasters 78
When to take place 79
Hours within which to be held 79
Poll at... 83

DEFINITIONS—
"Municipal Borough" 74
"Municipal Corporations Act" 74
"Municipal Election" 75
"District Borough"... 96
"Polling Place" 96
"Agents of Candidates" 96

DEPUTY-RETURNING OFFICER—
When he may be appointed 51
His powers 51

DISCLOSURE OF VOTE—
When an elector may not be compelled to disclose his vote 54

DISQUALIFICATION—
Persons disqualified for voting at parliamentary or municipal elections 49

EQUALITY OF VOTES—
Returning officer to give casting vote 40

IDENTIFICATION OF VOTER—
Nothing to be placed on ballot paper to identify voter except number on back 39
The mode in which an elector has voted not to be discovered until vote declared invalid 92

ILLITERATE VOTERS—
Their ballot papers may be marked by presiding officer ... 86
Declaration to be made by them 86, 110

IRELAND—
Alterations for applications of Part I. of Act to 53
Application of Part II. (as to municipal elections) to 69
Modifications in application of Part I. of Schedule I. to 98
Modifications in application of Part II. of Schedule I. to 101

PAGE

JEWS—
If election on Saturday, presiding officer may mark their voting papers 86

MISCONDUCT—
Liability of officers for 53

MISDEMEANOUR—
In respect of nomination papers, ballot papers, and ballot boxes 40–42

MUNICIPAL ELECTIONS—
Poll at, to be conducted by ballot 66
Poll to be conducted generally as in a parliamentary election 66
Act only applies to taking poll at 67
Meaning of terms of Act when applied to 67
Provisions of Act which do not apply to 67
Abolition of ward assessors 68
Rules with regard to 98
Application of this part of Act to Scotland 68
——— ——— ——— ——— Ireland 69

NOMINATION—
Candidates to be nominated in writing 36
The writing to be signed, by whom 36
To whom it is to be delivered 37, 81
When it is to be delivered 37, 81
By whom to be delivered 37, 81
What candidates are duly nominated 82
By whom objections to validity of nomination paper may be taken, and by whom decided 80
If no more candidates nominated than there are vacancies 37
If more candidates than vacancies 37, 81
Notice of 78, 82
When to be given 78
How to be given 78
Notice of place where nomination papers to be obtained ... 78
Publication of notice of, by postmasters 78
When to take place for a county 79
——— ——— ——— borough 79
——— ——— ——— district borough 79
Place of 79
Time of 79
Who may be present at 81
Papers to be supplied to electors by returning officer ... 80
Use of papers thus supplied not obligatory... 81

PAGE

NOMINATION PAPER—
Form of 105
To be supplied to electors by returning officer 80
When to be supplied 80
By whom to be signed 37
A separate nomination paper for each candidate 80
The same elector may sign more than one 80
How candidates are to be described in 80
Delivery of to returning officer 37
Objections to 80
Forgery of 40
Defacing or destroying 40
Delivering to returning officer nomination paper known to be forged 40

NOTICES—
Of nomination, and of poll in case of contest 78, 82
Of time and place when and where nomination papers may be obtained 78
How notices of nomination and of poll to be sent in county elections 79, 81
Of withdrawal of candidate 38, 82
How under the Act to be given 94
Form of, of parliamentary elections 104

NUMBER—
Corresponding, to be printed on ballot paper and counterfoil 38
Of voter on register to be marked on counterfoil 39, 85

OFFENCES AT ELECTIONS—
Forging nomination paper 40
Fraudulently defacing nomination paper 40
Fraudulently destroying nomination paper 40
Delivering to returning officer forged nomination paper ... 40
Forging ballot paper 40
Forging or fraudulently destroying ballot paper 41
Forging official mark 41
Supplying ballot paper without authority 41
Putting into ballot box any paper other than ballot paper 41
Fraudulently taking ballot paper out of polling station ... 41
Destroying, taking, opening, or otherwise interfering with ballot box or ballot papers when in use 42
Punishment for such offences 42
Attempt to commit such offences 42
Offences in regard to infringement of secrecy 43
Misconduct of officers ... ... [53

PAGE

OFFICIAL MARK—
Ballot paper to be marked with 39
Ballot paper not marked with, to be void 39
To be kept secret 84
Infringement of secrecy of 43
Same mark not to be used oftener than once in seven years 84

ORDER—
Powers of presiding officer for keeping, in polling station 51

PERSONATION—
What is 70
Offence of, when complete 70
When person guilty of, may be given into custody 70
Aiding, abetting, counselling, or procuring 71
A felony 71
Punishment for 71
Returning officer to prosecute for 71
Costs of prosecutor and witnesses to be allowed as in other cases of felony 71
Provision of Registration Acts in Third Schedule to apply to, under this Act 71, 124
A corrupt practice 72
This part of Act to apply to University elections 74

POLL—
Notice of day of 81
How to be taken 38
Votes at, to be given by ballot 38
Close of 39
Counting votes at 39
Offences at 40
Secrecy of 43
Use of schoolroom and public room for 47
No candidate to go to, unless duly nominated 82
When to take place 83
Returning officer to provide polling stations, &c. 83

POLLING DISTRICTS—
Counties to be divided into 45
Each district to have polling place 45
No district need be constituted with fewer than 100 electors 45
In boroughs 45
Local authority empowered to divide counties or boroughs into... 46
When orders for constitution of are to be made and come into effect 47

PAGE

POLLING PLACES—
Every county elector to have one, within four miles of his residence 45
No election to be questioned for informality as to 47
When order of local authority with respect to, is to be made and come into effect... 47

POLLING STATIONS—
Provision of, and mode of fitting 83
To have compartments in which voter can mark ballot paper secretly 83
Regulations with respect to 83, 84

PRESIDING OFFICER—
To be appointed by returning officer... 84
Power of, at polling station 51, 84
May mark ballot papers of persons physically incapacitated, illiterate, or Jews 85
When he may give a person into custody 51
Powers of, with respect to adjourning poll 52
——— ——— ——— administering oaths and declarations 53
Duty of, on close of poll 87
Liability for misconduct 53
To make declaration of secrecy 95

PROPERTY—
In whom the, in nomination papers, ballot boxes, &c., is to be laid in prosecutions 42

PROPOSER OF CANDIDATE—
At nomination to be a registered elector 36
Duty of, in regard to nomination 37
When, may withdraw candidate 38
How, is to withdraw candidate 38
And seconder may attend nomination 81

PROSECUTION—
In whom the property in nomination papers, ballot boxes, &c., is to be laid 42
Returning officer to prosecute for personation 71

PUBLIC ROOM—
Room maintained out of local rate may be used free of charge for parliamentary elections 48
Damage done to, to be made good 48

PAGE

PUNISHMENT—
For offences in respect of nomination papers, ballot papers, and ballot boxes 42
For infringement of secrecy 43
For personation 71

POSTMASTERS—
To forward notice of nomination day free of charge ... 78
To publish such notice 78
To forward and publish notice of day of poll 81

RATES—
Use of room in unoccupied house as polling station not to involve the rating of such house 48

REGISTER OF VOTERS—
No person to be entitled to vote unless his name is on register 48
Every person on the register to be entitled to vote 49
Except persons disqualified to vote 49
Mark to be placed in register against name of elector voting 85

REPEAL OF ACTS—
Acts specified in 4th, 5th, and 6th Schedules to be repealed 76
Proviso as to their repeal 76
Fourth Schedule (England) 112
Fifth Schedule (Scotland) 117
Sixth Schedule (Ireland) 120

RETURN—
Of members elected to be made to the clerk of the crown 40
How to be made 93
Returning officer to give public notice of candidates elected 93

RETURNING OFFICER—
Duty of, on receipt of writ 78
Must give public notice of nomination 78
——————————— day of poll 78
——————————— time and place where forms of nomination paper may be obtained 78
In county elections must send notice of nomination day to postmasters 78
When and where he must hold nominations 79
Hours within which nominations to be held 79
Must supply nomination papers to electors 80
Must give immediate notice of nomination 82
To decide on validity of nomination papers 82

PAGE

RETURNING OFFICER—*continued.*
Duty of, at nomination of candidates 37
Must take a poll if more candidates than vacancies ... 37
When and how notices of poll to be given 81
When he is to appoint the poll 83
His duty in regard to providing polling stations 83, 84
Must appoint presiding officer at polling station 84
On close of poll to have charge of ballot boxes 39
To open ballot boxes in presence of candidates' agents ... 39
Decision of, as to validity of ballot papers... 40
Not to vote at elections except to give casting vote ... 40
General powers and duties of 50
To provide all things, and employ all persons necessary to the conduct of elections 50
Expenses of, how defrayed 50
When deputy may be appointed 51
Liability for misconduct 53
Duties of, in regard to counting votes 88–90
Duties of, after completion of counting votes 90
Returns to be made and documents to be forwarded by him to the clerk of the crown 90
To give public notice of members elected 93

RULES—
Election not to be invalid on account of non-compliance with rules 54

SCHEDULES—
Schedule I. 78
——— II. 102
——— III.... 111
——— IV. 112
——— V. 117
——— VI. 120
To be construed and have effect as part of Act 74

SCHOOLROOM—
The room of a school in receipt of a parliamentary grant may be used, free of charge, as a polling station at a parliamentary election 47
Damage done to, to be made good 48

SCOTLAND—
Alterations for application of Part I. of Act to 56
Application of Part II. (as to municipal elections) to ... 68
Alterations for application of Part III. (personation) to ... 73
Modifications in application of Part I. of Schedule I. to ... 97
Modifications in application of Part II. of Schedule I. to... 100

PAGE

SCRUTINY—
Votes to be struck off on 73

SECRECY OF BALLOT—
Voter to mark ballot paper secretly 39, 85
To fold up paper so as to conceal his vote 39, 85
Secrecy in voting, optional or compulsory 9, 39
Officers, clerks, and agents at polling station to make declaration of secrecy 43, 95
Form of declaration of secrecy 110
Officers, clerks, and agents not to communicate information as to voters who have polled 43
Nor as to manner in which voter has voted... 43
Nor as to number on back of ballot paper 43
Officers, clerks, and agents to maintain secrecy 43
No one to induce voter to display ballot paper 44

SHERIFF—
When returning officer for more than one county, may appoint deputy 50

TIME—
Mode in which, to be computed 96

TREATING—
Vote obtained by, when to be struck off 73

UNDUE INFLUENCE—
When vote obtained by, is to be struck off 73

VOTE—
Obtained by bribery, treating, or undue influence, will be struck off 73
Of agents, clerks, messengers, &c., employed by candidate, will be struck off 73
Tendered, what, and how to be dealt with 86
Returning officer to publish number given for each candidate 94

VOTER—
Directions for the guidance of, in polling 109

WRIT—
For a county or borough at a parliamentary election and other forms connected therewith 102–103

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